

Nov. 22, 2019

The Hon. David Kautter
Assistant Secretary for Tax Policy
Department of the Treasury
1500 Pennsylvania Avenue, NW
Washington, D.C. 20220

The Hon. Michael Desmond
Chief Counsel
Internal Revenue Service
1111 Pennsylvania Ave., NW
Washington, D.C. 20224

RE: Partnership Tax Return Information: Draft 2019 Form 1065 and Schedule K-1 (the Draft Forms)

Dear Assistant Secretary Kautter and Chief Counsel Desmond:

This letter is submitted on behalf of the undersigned national real estate organizations supporting the views set forth in the letter dated Nov. 11, 2019 from Craig Gerson, PwC LLP; Deborah Fields, KPMG LLP; Matthew Lay, Deloitte LLP, and Andrea Whiteway, Ernst & Young LLP, regarding the above-referenced Draft Forms, and, in particular, the proposed changes to these Draft Forms (the Accounting Firms' Letter). We agree that proposed changes in the Draft Forms would "create significant costs and administrative burdens to partnerships and their partners" that "could be mitigated and the quality of information reported to the IRS could be improved if the new reporting requirements are delayed" until at least 2020 to allow for additional public comments and adequate time for taxpayers to develop systems for obtaining the necessary information.

Most real estate related enterprises, including those used by our members, operate in partnership form. According to the IRS' Statistics of Income Division's [partnership tax return data for 2015](#), real estate and rental and leasing accounted for 49.7% of all partnerships.

Several of our members have advised us that they would not be able to accurately compile on a timely basis a significant amount of the information needed to complete the Draft Forms, such as tax capital account information and section 465 reporting regarding multiple activities. Thus, we agree with the Accounting Firms' Letter that that these significant changes should be adopted only after following a more comprehensive public notice and comment process. Doing so would be consistent with the principles underlying the [policy statement issued by the Treasury Department on March 5, 2019](#), which noted that:

The best practice for agency rulemaking is the notice-and-comment process established by the Administrative Procedure Act (APA). This process allows the public to participate before any final rule becomes effective and ensures that all views are adequately considered. It also enables the public to apprise the government of relevant information that the government may not possess or to alert the government to consequences that it may not foresee.

Further, the policy statement also notes that one of the factors to be considered in determining whether to issue sub-regulatory guidance (such as the Draft Forms) include "the intended effect on taxpayers' rights or duties, the need for public comments."

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The various issues raised by the Accounting Firms' Letter also have been detailed by a number of commentators.¹ Along with the recommendations suggested by the Accounting Firms' Letter and the various commentators, we respectfully request that the Treasury Department delay implementation of the Draft Forms by at least one year (until 2020) to allow for "full public review and comment process" consistent with the March 5, 2019 policy statement.

Please contact Cindy Chetti, National Multifamily Housing Council's Senior Vice President of Government Affairs, at cchetti@nmhc.org, Tony Edwards, Nareit's Senior Executive Vice President, at tedwards@nareit.com, or Phillips Hinch, ICSC's Vice President, Tax Policy, at phinch@icsc.org, if you would like to discuss this letter in greater detail.

Respectfully submitted,

American Seniors Housing Association
Building Owners and Managers Association (BOMA) International
CCIM Institute
Institute for Portfolio Alternatives
Institute of Real Estate Management
International Council of Shopping Centers
NAIOP, the Commercial Real Estate Development Association
Nareit
National Apartment Association
National Association of Home Builders
National Association of REALTORS®
National Multifamily Housing Council

cc: Michael Novey, Esq.
Holly Porter, Esq.
Bryan Rimmke, Esq.
Krishna Vallabhaneni, Esq.
Jeffrey Van Hove, Esq.
Cliff Warren, Esq.

¹ See, e.g., Nov. 7, 2019 letter to from Steven R. Schneider and Richard M. Lipton of Baker & McKenzie LLP to Mr. David Kautter and Nov. 18, 2019 letter to Messrs. David J. Kautter and Michael Desmond from Jeffrey D. DeBoer of The Real Estate Roundtable.