

NAR Committee:

Federal Taxation Committee

What is the fundamental issue?

Historically, a developer's costs for site preparation were capitalized (added to the basis) into the cost of the land. Thus, those costs could be recovered only when the property was sold. In the late 1990s however, Congress enacted a temporary provision that would allow the costs of brownfields clean-up to be taken as a current deduction. This provided a substantial savings for developers. Because the provision was enacted as a temporary incentive, it has required regular renewal over the years. This provision expired at the end of 2011. Unfortunately, Congress chose not to include this provision in a bill enacted on January 2, 2013, which retroactively reinstated most other expired tax provisions. Brownfields are properties that are contaminated with non-petroleum chemicals and substances.

I am a real estate professional. What does this mean for my business?

If property developers can deduct the costs of cleaning up contaminants, a barrier to sale and development of a property may be eliminated. Property values will improve as contaminants are removed.

NAR Policy:

NAR supports deductions for brownfield cleanup costs.

Opposition Arguments:

N/A.

Legislative/Regulatory Status/Outlook

There has been little or no controversy about the merits of the brownfields deduction or most of the other more than 100 expired provisions.

However, tax reform has moved up on Congress's list of priorities, and along with considering ways to simplify the tax system and make it work better, many members of the tax-writing committees in Congress have indicated an interest in taking a look at many of the "extenders" that have been routinely extended year after year. This process started in 2012 when the Senate Finance Committee considered a bill to extend the expired provisions. Most of the long list of these provisions were extended once again, but there was pressure on the members to show that some were "culled" from the list. The brownfields deduction was a victim of this pressure.

Now that the brownfields provision has been left out of extended provisions, getting it added back to the

list of viable and probably extended provisions is quite unlikely. Thus, the outlook for this provision being extended is not good.

Current Legislation/Regulation (bill number or regulation)

No actions at this time.

Legislative Contact(s):

Evan Liddiard, eliddiard@nar.realtor, 202-383-1083

Regulatory Contact(s):

Evan Liddiard, eliddiard@nar.realtor, 202-383-1083