PATH Act Personal Real Estate

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Individuals who own real estate have cause to celebrate! The "Protecting Americans from Tax Hikes Act of 2015" that recently passed Congress has extended several tax saving opportunities for homeowners and real estate investors.

Mortgage Debt Exclusion

Home mortgage debt cancellation will remain excludable from income through 2016. This cancellation of debt (COD) income, often incurred through foreclosure or short sale, does not need to be included in income if the debt discharged was for "qualified principal residence indebtedness." The debt can be discharged in whole or in part, up to $2 million ($1 million if married filing separately). The basis of the residence is then reduced by the amount of COD income excluded, but not below zero. For those who anticipate COD income in the coming year the income can be excluded if the discharge is agreed to in writing in 2016 even if the debt is not actually discharged until 2017.

Mortgage Insurance Premiums

Homeowners can continue to deduct qualified mortgage insurance premiums in connection with acquisition indebtedness for the taxpayer's main or second home. These premiums will continue to be treated as qualified residence interest and are deductible on Schedule A through 2016. This deduction is subject to a phase out for married filing jointly taxpayers beginning with AGIs of $100,000 and completely phasing out at $109,000. Prepaid mortgage insurance premiums will continue to be allocated over the shorter of the term of the loan or 84 months (seven years).

Nonbusiness Energy Property Credit

Certain energy efficient improvements to existing homes will now qualify for a 10 percent credit through 2016. The total credit for all tax years can't exceed $500, no more than $200 of which can be claimed for expenditures for windows. The limits imposed are lifetime limits, therefore taxpayers who have already used the maximum credit may not claim any additional credit. Improvements that qualify include components that meet or exceed criteria established by the 2009 International Energy Conservation Code, that are installed in a U.S. dwelling located in the U.S. and owned and used by the taxpayer as his/her primary residence, whose original use commences with the taxpayer, and that reasonably can be expected to remain in use for at least five years.

Residential Energy Efficient Property (REEP) Credit

The REEP credit for solar property has been extended through 2021; however, the credit begins to phase out for property placed in service after 2019. A 30 percent credit is currently available for property placed in service through 12/31/19. The credit reduces to 26 percent for property placed in service in 2020 and to 22 percent for property placed in service in 2021. The credit is available for qualified solar property and qualified solar water heating property.

For Virginia First-Time Homebuyers

This does not fall under the PATH Act but is a relatively new provision for the state. Under this program Virginia residents may designate an account with a financial institution as a first-time homebuyer savings account. Earnings on these accounts such as dividends, interest and capital gains may be excluded from Virginia income. Distributions from this account must be used for a down payment and/or approved closing costs. If distributions are used for any other purpose previously taken subtractions are subject to recapture (must be included in income).

For Real Estate Investors/Professionals

If you are a real estate investor there are several other provisions that have been extended or made permanent that may provide planning opportunities including, but not limited to: a five year extension of bonus depreciation, the permanent extension of the increased Section 179 deduction, the permanent extension of the 15-year depreciation recovery period for certain property, a relaxed definition of qualified leasehold improvement property, the extension of low income housing credit percentages, as well as two-year extensions of the energy efficient commercial building deduction and the credit for energy efficient homes.

This is just the beginning; there are several other extensions, some permanent, of credits and deductions relating to both individuals and businesses. For more information or an analysis of how the PATH Act affects you, please contact your tax advisor.