



# Housing Advisory Group



## Housing Modernization and Tax Update

There is a lot happening on the legislative front, so we wanted to get everyone up to date on the latest developments. The caveat is that as things happen, things are continuing to change quickly, so do not be surprised if we send another update out that is somewhat inconsistent with what we are passing on today.

It is with 99% certainty that we can say that the Housing Modernization legislation we have all been working on this year will be put on the shelf until after the first of the year. While Chairman Rangel had planned to introduce the legislation as a stand-alone bill this fall, the legislative calendar and other issues that must be addressed before the end of the year have forced him to postpone the introduction of the Housing Modernization bill until early next year. While disappointed, we are pleased that the process is moving forward. The Chairman's staff has forwarded the draft bill to the Joint Tax Committee so that the various proposals in the bill may be "scored," which is an important and a necessary step for the bill to move forward. We are confident that once introduced, we will be able to get action on the legislation, which is desperately needed by the housing industry.

Another issue on the front burner, is the AMT relief legislation (referred to as the "patch"), which passed the House and is now being discussed in the Senate. This legislation would prevent an estimated 20 million families from being subject to AMT in the current tax year. The legislation would also extend for one-year tax provisions set to expire at the end of 2007. Complicating this process is that House Democrats insist that there be revenue offsets to cover the cost of extending these expiring tax provisions. One point of information. The AMT legislation currently being debated in the Congress solely deals with individual AMT. We want to make sure you are aware that corporate AMT is one of the foremost issues being addressed within the Housing Modernization bill.

One of the proposed tax hikes to offset the cost of the AMT patch is a proposal to change the way so-called "carried interest" is taxed. Currently, carried interest is taxed at the capital gains rate of 15%. The proposal would tax carried interest at ordinary income tax rates, which could be more than double the current rate. This proposal has raised many questions, including how such a change would affect the real estate industry. While the provision passed the House, where a simple majority can get proposals through the chamber, it does not appear that there are enough Senators (60 is a must need number) to pass the carried interest offset in the Senate.

There is a sentiment in the Senate that while the expiring tax provisions should be offset, the AMT patch should be passed without any tax increases to offset the cost. The President has vowed to veto any proposal that comes before him that would raise taxes and most Republicans agree that taxes should not be raised. Therefore, it is likely we will see a one-year AMT patch without revenue offsets, such as carried interest. At this moment, the House is developing a new stand-alone bill that would provide a one-year AMT patch, which would be offset with relatively non-controversial tax increases, meaning that carried interest would most likely not be included as an offset. The fate of the expiring tax provisions this year, which may or may not be offset with tax hikes, is less certain. We will see what emerges in the coming days.

On the appropriations front (including the HUD appropriations bill), Democratic leaders would like to pass an omnibus (all in one) appropriations bill, covering all government operations other than Defense, which has already passed Congress and has been signed by the President. Currently, the White House and Congress are \$22 billion to \$30 billion apart on government funding levels. The Democratic leadership has offered to come halfway toward the President, cutting \$11 billion or so in spending. The President continues to insist he will veto any appropriations bill that is over what his administration has proposed to spend. Democrats hope to break the stalemate by convincing enough Republicans to come on board with their compromise omnibus bill so that they could override the presidential veto. Democrats may further sweeten the package for Republicans by adding around \$30 billion for the Pentagon to cover costs associated with the conflict in Afghanistan and other needs that are being held up in the battle between the President and Democrats on the bill funding the Iraq war. This situation is very fluid and if the Democrats are unsuccessful we could have another CR, (continuing resolution) funding government operations into next year.

Stay tuned.

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