



The Real Estate Roundtable

Real Estate, Tax Legislation and the Post-Election Policy Landscape

2026 ASCSP Annual Meeting

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The Real Estate Roundtable
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www.rer.org

The Real Estate Roundtable

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- Brings together leaders of the nation's top publicly-held and privately-owned real estate ownership, development, lending and management firms with the leaders of major national real estate trade associations to jointly address key national policy issues relating to real estate and the overall economy.
- Seeks to ensure a cohesive industry voice is heard by government officials and the public about real estate and its important role in the global economy.
- Roundtable members' portfolios contain over 12 billion square feet of office, retail and industrial properties valued at more than \$4 trillion; over 4 million apartment units; and in excess of 5 million hotel rooms.

Real Estate Trade Organizations

10%

American Hotel & Lodging Association (AHLA)	NAIOP, the Commercial Real Estate Development Association (NAIOP)
American Resort Development Association (ARDA)	National Apartment Association (NAA)
Association of Foreign Investors in Real Estate (AFIRE)	National Association of Home Builders (NAHB)
Building Owners and Managers Association Int'l. (BOMA)	National Association of Real Estate Investment Managers (NAREIM)
CCIM Institute (CCIM)	Nareit (NAREIT)
CRE Finance Council (CREFC)	National Association of Realtors® (NAR)
CREW Network (CREW)	National Multifamily Housing Council (NMHC)
International Council of Shopping Centers (ICSC)	Pension Real Estate Association (PREA)
Mortgage Bankers Association (MBA)	Real Estate Executive Council (REEC)
	Urban Land Institute (ULI)



Asset Managers

3%

Financial Services

20%

58% Banks (Commercial & Investment)
26% Insurers
16% Mortgage Bankers

Owners

67%

55% Private	12% Hotel
44% Public	11% Housing
46% Mixed	4% Industrial
14% Office	2% Other
12% Retail	

Agenda

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1. Recent real estate tax policy developments
2. Are we at a policy crossroads?
3. Congress and the mid-term elections
4. What's next? Legislative landscape in 2027 and beyond—potential paths
5. Key real estate tax issues: housing affordability, energy/utilities, city revitalization
6. Debt and deficit challenges
7. Where will Congress look for revenue?

Major Real Estate Tax Policy Developments in 2026

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- US/OECD reach global tax agreement, reducing pressure for retaliatory tax measures on foreign real estate investors. [Treas. Release](#)
- Treasury allows real estate owners to revoke previous business interest deductibility elections, extending bonus depreciation to prior real estate investments (§163(j)). [Rev. Proc. 2026-17](#)
- Treasury provides relief from proposed rules adversely affecting foreign governmental investors in U.S. real estate. [NRPM, Jun. 1, 2026](#)

Major Real Estate Tax Policy Developments in 2026

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- IRS rolls out new rules for Opportunity Zones; issues favorable transition guidance OZ 1.0 investments. [Notice 2026-40](#)



- Two federal circuit courts side with IRS, extend self-employment taxes to LPs in limited partnerships ([Sirius Solutions](#) (5th Cir.); [Soroban Capital Partners](#) (2nd Cir.); case before 1st Circuit still pending.

Real Estate Tax Policy in the Current Congress

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Main takeaways:

- Tax reforms in the One Big Beautiful Bill Act were overwhelmingly positive for US real estate: 199A, OZs, LIHTC, bonus depreciation, condo construction tax accounting, 163(j).
- Real estate avoided potential harms: business SALT, carried interest, 899, 461(l), 1031, SALT pass-through workaround regimes
- Real estate industry focus in 2026 has been on OBBBA implementation—bonus depreciation, OZs, clean energy tax incentive rollback—and other tax regulatory activity (FIRPTA, 892)

Are we at a policy crossroads for real estate?

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- Washington grappling with staggering federal deficit, widening wealth gap, affordability issues in housing, and rising populist threats to economic norms
- Challenges: chaotic regulations, weaponized litigation, and volatile capital markets, along with production-cost crisis
- At same time, cities are evolving--downtown cores are shifting from rigid 9-5 commuter models to dynamic, 24/7 residential ecosystems
- Solutions
 - Breathe new life into obsolete commercial assets
 - Incentivize capital to invest
 - Strip artificial regulatory premiums out of construction costs
 - Restore public credibility by building workforce housing

Congress and the 2026 Mid-Term Elections

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Current Senate: 53-47

11 Senators not seeking reelection

Current House: 219-214 (2 vacancies)

60 Members not seeking reelection

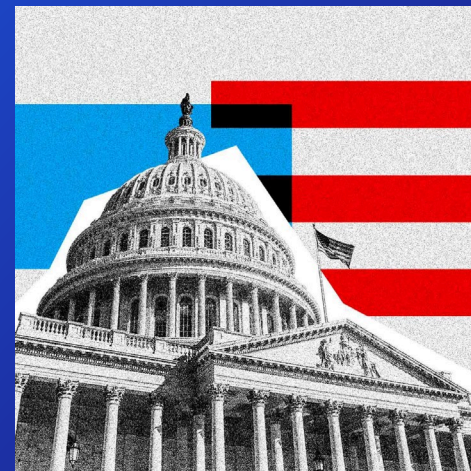
Tax-Writing Committees:

Current Senate Finance Committee: 14-13

- 4-6 Rep. departures

Current House Ways & Means Committee: 26-19

- Dems could have as many as 11 seats to fill (7 new + 4 departures)



Electoral Outlook: House

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House Snapshot (5 days out):

- 218 seats needed for control
- Cook Political Report
 - Solid/likely/lean Democratic: 220 (*214 one week earlier*)
 - Solid/likely/lean Republican: 198 (*200 one week earlier*)
 - Toss ups: 17 (12 Rep, 5 Dem)
- Prediction markets (Polymarket US)
 - 91% likelihood that Democrats will win control of the House (*up from 90% one week earlier*)

Electoral Outlook: Senate

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Senate Snapshot (5 days out):

- 35 Senate races (13 Dem., 22 Rep.)
 - Democrats need to win 17 of the 35 races (flip 4 seats) to control the Senate, 51-49
- Cook Political Report
 - 7 Toss-ups (6 Rep. / 1 Dem): Alaska, Iowa, Kansas, Maine, Michigan, Ohio, Texas
 - Other States to watch: Minnesota (D), New Hampshire (D), South Carolina (R)
- Prediction markets (Polymarket US)
 - 65% likelihood that Democrats will win control of the Senate (10/28)
 - *(63% likelihood one week earlier)*

What's Next?

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Congress returns on Nov. 9 for 24-day lame duck session

- **Why lame duck sessions matter:** outgoing Majority's "last gasp"; incoming Majority "clearing the deck"; bottled-up legislative demand; ousted/retiring Members less concerned with political fallout
- **Must-pass agenda:** government spending (stop-gap spending bill expires Dec. 11)
- **Other issues vying for attention:**
 - Annual defense authorization bill
 - Highway/transportation authorization
 - Farm bill
 - College sports regulation / NIL bill
 - Health care extenders
 - Debt limit
 - Tax: tax admin, cryptocurrency, adv. manuf. credit

Post-Election Legislative Landscape in 2027

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Potential Alternative Paths

1. Policy gridlock

- Investigations, oversight, and partisanship prevail. Congressional Democrats push messaging bills that won't be enacted but create contrast, frame agenda, and unify Party headed into 2028.
- President Trump focuses on issues he can control: foreign affairs, national security, trade, executive orders, aggressive enforcement.

2. Policy activism

- Renewed bipartisan focus on affordability/economic insecurity. Populist policy responses transcend party lines, create common ground.
- Democratic victories in red states strengthen moderates.
- Issues to watch: partnership reform, data centers, expiring tax provisions, retaliatory tax measures, wealth taxes/capital gains, carried interest, etc.

Post-Election Legislative Landscape in 2027 13

Democratic Priorities

1. **Affordability:** housing, food, utilities, child care, elder care, child tax credit
2. **Health care:** permanently extend expiring and expired Affordable Care Act tax credits and subsidies
3. **Trade:** roll back President Trump's tariff regime
4. **Labor:** federal civilian pay
5. **Voting rights:** legislation to counter mid-decade redistricting

Post-Election Legislative Landscape in 2027

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Housing Affordability

Bipartisan momentum for addressing high housing costs following enactment of 21st Century ROAD to Housing Act ([Pub. L. 119-101](#))

Tax Proposals:

1. LIHTC enhancements; middle-income housing tax credit
2. *Neighborhood Homes Investment Act* (LIHTC for owner-occupied housing)
3. Commercial-to-resident conversion tax credit
4. Immediate expensing (per unit cap) for new rental housing
5. Increase capital gains exclusion for principal residence ([H.R. 1340](#))
6. Tax credit for disaster mitigation/resiliency costs
7. Tax penalties on large owners of single-family rental homes

Post-Election Legislative Landscape in 2027

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Energy and Utilities Costs

Bringing down fuel, energy, and utilities costs are Congressional priorities

Tax Proposals:

- Restore IRA clean energy production and investment credits, energy-efficiency incentives, electric vehicle and EV charging property credits
- Grid capacity: 30% investment credit for long-range electric transmission lines
- Investment tax credits for water reuse systems and recycling property
- Allocated (\$3B) investment tax credit for advanced battery manufacturing and research facilities

Post-Election Legislative Landscape in 2027

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Economic Development / Downtown Revitalization

Cities were hit hard by the pandemic and the shift to remote work. Revitalizing city centers creates jobs, boosts local revenue, and strengthens communities

Tax Proposals:

- Restore and improve the historic rehabilitation tax credit
- Provide tax credit for converting obsolete commercial buildings to housing ([H.R. 2410](#))
- Remove tax penalty that applies to property redevelopment; allow taxpayer to deduct basis of demolished building if replaced with a new structure
- Increase investment in Opp. Zones by lowering substantial improvement threshold, increasing structuring flexibility, and facilitating foreign capital

Debt and Deficit Challenges

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Federal budget in a nutshell:

- **Spend \$7T/year**
- **Raise \$5T/year**
- **Borrow \$2T/year**

Debt held by the public = \$32.5T (100% of GDP)

- **Annual deficit = 6.1% of GDP in 2026**
 - 50 year average was 2.9% leading up to the Pandemic
 - Debt increasing \$5.8 billion/day
- **Average interest rate on US debt: 3.53%**
 - By comparison: 6.5% in 2000, 1.6% in 2021



Debt and Deficit Challenges

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Average maturity of debt: **71 months**

- \$9.7 trillion in federal public debt maturing over next 12 months

Annual net interest expense: **3.2% of GDP** and rising (\$1.1T)

- Post-WWII peak: 2.1% (1946)
- Volcker-era, high interest rate peak: 3.2% (1991)

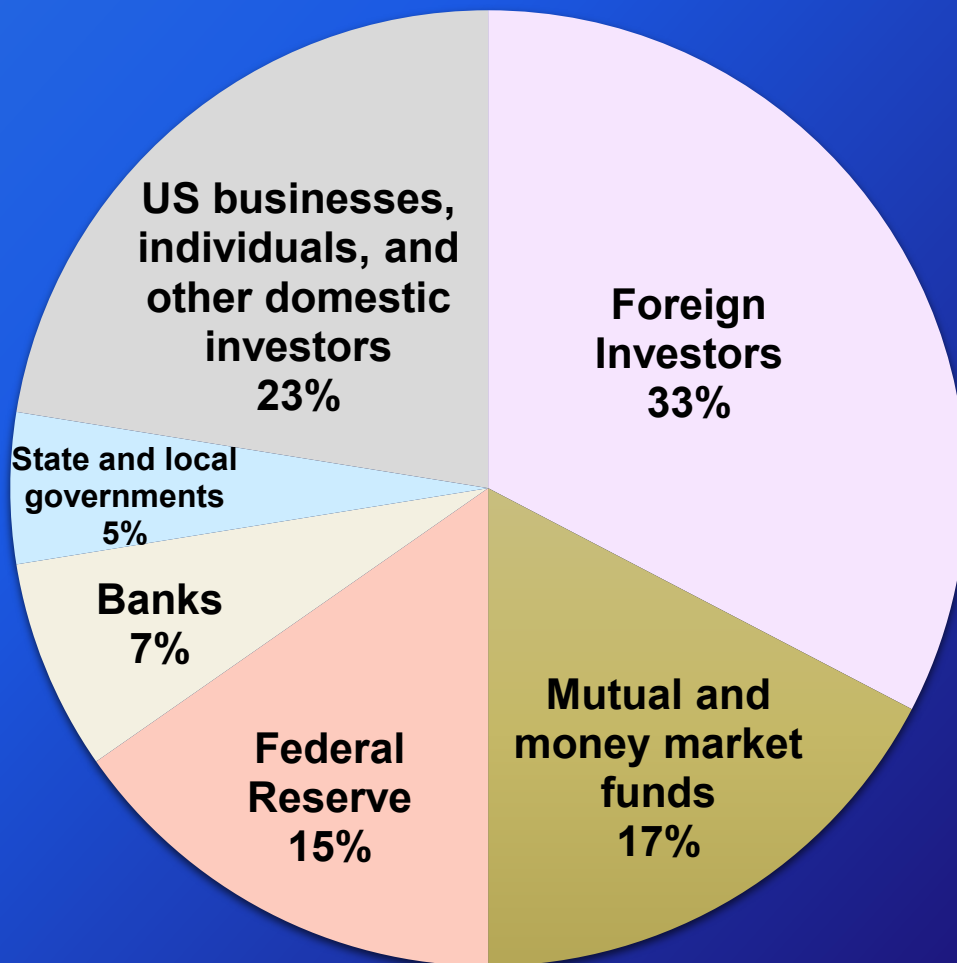
US household:

- \$298,606 (share of the federal debt)
- \$105,444 (average amount of personal debt—70% is mortgage)

Debt and Deficit Challenges

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Holder of US Publicly Held Debt



When the party ends, where will Congress look for revenue?

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Revenue proposals passed by the House Way and Means Committee in 2021 but not enacted:

1. Increase corp. tax rate from 21% to 26.5% (540B)
2. Extend NIIT to all pass-through business income (252B)
3. Increase top tax rate to 39.6% (170B)
4. Modify rules for excess business losses* (167B)
5. 3% surtax on high-income individuals (>5M), trusts, and estates (127B)
6. Increase capital gains rate/dividend rate to 25% (123B)
7. Limit sec. 199A deduction for high-income earners (78B)
8. Repeal TCJA doubling of the estate tax exemption (54B)
9. Modify tax rules for carried interest (14B)

Other real estate-related revenue proposals 21

- PARTNERSHIPS Act
- ROBINHOOD Act
- Stop Wall Street Looting Act
- Data center tax reform
- Stop Predatory Investing Act
- Tax unrealized gains

PARTNERSHIPS Act

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Preventing Abusive Routine Tax Nonsense Enabled by Rip-offs, Shelters, and Havens and Instead Promoting Simplicity Act (*PARTNERSHIPS*) Act ([S. 2095](#))

- Sponsor: Senate Finance Committee Ranking Democrat Ron Wyden (D-OR)
- Anticipated to raise over \$1 trillion / 10 years
- Stated objectives:
 - *Eliminate optionality; remove ambiguity; facilitate auditing and enforcement; align language and policy of existing provisions; don't allow taxpayers to pick and choose when they pay tax; raise revenue.*

PARTNERSHIPS Act

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Key Provisions:

- Directs Treasury to issue regulations applying economic substance approach when analyzing partnership transactions
- Require partnership liabilities (including recourse debt) to be allocated based on the partners' shares of partnership profits
- Require revaluations of partnership assets upon certain changes in the partners' economic arrangement
- Extends net investment income tax to all trade or business income not currently covered by FICA, SECA, or NIIT

PARTNERSHIPS Act

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Key Provisions, continued:

- Retains “substantial economic effect” test for allocations of income, gain, loss, deduction, or credit, but requires use of “consistent percentage method” for allocations if partners are members of a controlled group
- With respect to a partnership’s sale of property that had built-in gain or loss when contributed, requires use of the remedial allocation method under §704(c) to determine contributing partner’s gain or loss.
- Eliminate the 7-year rule for so-called mixing bowl transactions

“Buy, Borrow, Die” Tax Legislation

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ROBINHOOD Act (Sen. Ruben Gallego, D-AZ, [S. 4662](#))

- Treats loans as realization events for high net-worth individuals (income > \$100M *or* assets > \$1B)
- Applicable taxpayer must recognize gain on his/her long-term capital assets equal to any loan or long-term lease proceeds (irrespective of any relationship between the loan and the appreciated asset)
- Loans prior to enactment are aggregated and treated as issued on 1/1/27
- Loans to partnerships and other pass-through entities allocated pro-rata to the entity's owners
- No offsetting deduction for the lender

Stop Wall Street Looting Act

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Introduced by Sen. Elizabeth Warren and 6 other Senate Progressives ([S. 5512](#))

- Broadly applicable to private funds, including real estate
- Limits deductibility of business interest if investment is more than 50% levered (RPTOB election revoked)
- Repeals sec. 199A deduction for REIT dividends
- Recharacterizes all carried interest income as ordinary
- Restricts REITs' ability to own health care properties

Data Center Tax Reform

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White paper from Sen. Wyden released in August; draft legislation unveiled Oct. 23.

- Seeks to raise revenue to address negative impacts of data center buildouts and AI: increased energy prices, drained resources, workforce disruption
- Excise tax on data center gross receipts
- Repeal data center assets' eligibility for bonus depreciation
- Repeal data centers' eligibility for OZ benefits
- Restrict access to R&D tax credit for data center expenditures
- Treat data center rental income received by private REITs as nonqualifying REIT income

Stop Predatory Investing Act

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Sen. Raphael Warnock (D-GA), and 12 Senate Democrats ([S. 969](#))

- Disallows depreciation deductions and deductibility of business interest related to ownership of single-family rental (SFR) homes
- Applies if taxpayer owns 50 or more single-family rental properties
- Exceptions for build-to-rent and LIHTC housing
- ROAD to Housing Act generally bans large institutional investors (350+ units) from purchasing SFR homes (grandfathers existing holdings, includes various exceptions)

Tax Unrealized Gains

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- Proposals from Sen. Ron Wyden, President Biden, and others
- Details differ, but here's the basic concept:
 - Publicly traded assets marked to market and taxed annually
 - Gain on nontraded assets deferred until a designated recognition event occurs: sale, transfer, partnership contribution, like-kind exchange, etc. (Wyden)
 - When gain on a nontraded asset is recognized, the gain amount is increased to take into account the value of prior deferral ("deferral recapture amount") (Wyden)
 - Or, gain on a nontraded asset is taxed currently based on cost (or other valuation metric) + deemed rate of return and treated as a prepayment of tax on future realized gain (Biden)



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