

NAIOP VIEWPOINT

- Commercial real estate businesses rely on certainty in the tax code when making long-term investment decisions, including those involving tenant leasehold improvements and buildouts.
- Congress sought to incentivize increased capital investment in buildings by making shorter depreciation periods for Qualified Improvement Property (QIP) a permanent feature of the tax code rather than through temporary extensions.
- A drafting error in the 2017 tax bill requires writing off these improvements over a much greater period of time than originally intended, dramatically increasing the after-tax cost of going forward with these projects.
- Many businesses are delaying investing in building improvement projects until Congress addresses the issue, hurting job growth.
- Congress should pass technical corrections legislation early in 2019 to fix the QIP drafting error, thereby providing certainty and enabling the increased investment and job growth originally intended.

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TAX POLICY

OUR POSITION: Establishing a reasonable cost recovery period for Qualified Improvement Property (QIP) has long been a point of bipartisan agreement in Congress. While the Tax Cuts and Jobs Act intended to make permanent a 15-year payback period for these expenditures, an error in the bill instead forces businesses to recover these costs over 39 years (or, for certain real estate firms, 40 years versus the intended 20-year period). Congress should pass legislation that remedies this mistake and restores the original intent of the legislation.

QUALIFIED IMPROVEMENT PROPERTY

- Qualified Improvement Property is defined as any improvement to an interior portion of a nonresidential building, excluding an elevator or escalator, changes to the internal structural framework, or enlargement of the building. QIP includes leasehold and tenant improvements.
- These improvements to commercial office and industrial properties, restaurants, retail, and other leasehold spaces are often the largest investments made by firms with real property holdings, after the land and building themselves.
- Congress intended to make permanent shorter depreciation periods for QIP, which would reduce the after-tax cost of these improvements, provide added certainty and predictability to encourage long-term investment, and foster job growth and economic opportunity in the real estate, construction and other industries.
- Because of a drafting error in tax legislation, businesses are now required to write off the cost of these expenditures over a much longer time period, leading to a considerable increase in the after-tax cost of making improvements.
- The mistake is most accurately characterized as a clerical error, rather than the result of a misguided policy. It has been identified by the Joint Committee on Taxation as one of only three provisions in the bill that require a true technical correction in order to have the statute reflect legislative intent.
- Firms nationwide are delaying or even cancelling leasehold renovation projects, causing a ripple effect across the real estate, construction, retail, restaurant and manufacturing industries.
- The U.S. Treasury Department has stated that the issue cannot be remedied through regulation or Internal Revenue guidance, but requires a statutory change. Consequently, Congress should pass technical corrections legislation early in 2019 to address the error and enable businesses to go forward with investment decisions.