



The changing tax legislative landscape:
Considerations for businesses, investors,
and the real estate industry

Understanding federal tax benefits

Dec. 15, 2021 | 2:15-3:15 p.m. Eastern

PRESENTED BY:

Tim Trifilo

Michael Schindler

Devin Hall





Housekeeping

If you have joined this meeting via your mobile device, it is highly recommended you log out and log back in via your laptop.

Participant data required to validate CPE requirements is often not captured for those attending via a mobile device.



Housekeeping

PLEASE NOTE:

- All of today's audio is being broadcast to your computer speaker.
- Please submit questions through the Q&A function on your screen. If your question is not addressed in the session, a Crowe professional will follow up with you.
- To download a copy of the presentation or access the resources connected to this session, please visit the resources icon at the bottom of your console.

CPE CREDIT

- Log in individually to the session
- Successfully complete at least 3 of the 4 polling questions/participation checks

NO CPE CREDIT

- Failure to successfully complete at least 3 of the 4 polling questions /participation checks
- Viewing a recording of this session (CPE is only awarded for live sessions)

CPE CERTIFICATE OF COMPLETION

- Will be available for download following the session and e-mailed within two weeks of successfully passing this program
- Upon completion of this program you will receive a post-event evaluation.



Disclaimer

The information provided herein is educational in nature and is based on authorities that are subject to change. You should contact your tax adviser regarding application of the information provided to your specific facts and circumstances.

Presenters



**Tim
Trifilo**

Crowe LLP

Partner, Tax

Tim specializes in real estate and construction tax.



**Michael
Schindler**

Crowe LLP

Principal, Washington National Tax

Michael specializes in partnerships, real estate, and transactional consulting



**Devin
Hall**

Crowe LLP

Partner, Tax

Devin specializes in federal tax consulting.

Agenda

1

Identify changes in federal tax law affecting the real estate industry

2

Recognize real estate industry-related opportunities to harness federal tax benefits and incentives

3

Describe partnership tax issues for investment partnerships and the real estate industry

4

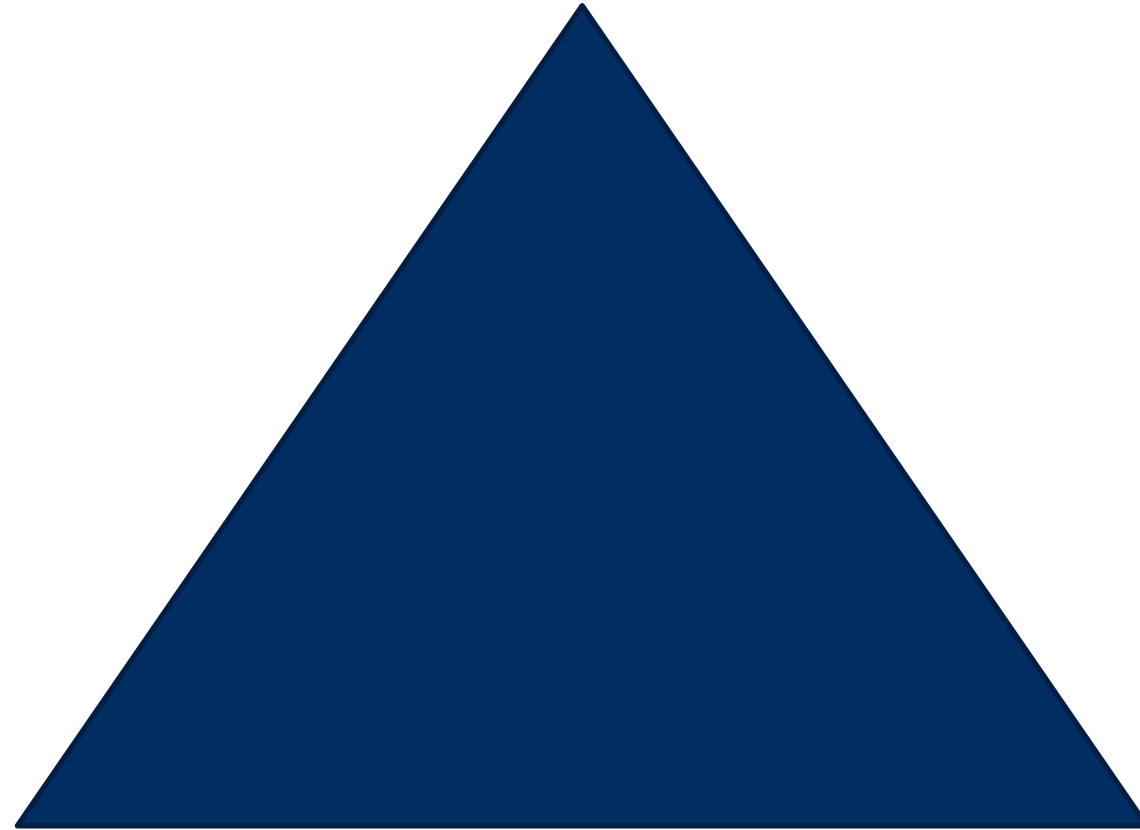
Identify credit and incentive opportunities generally and those impacting the real estate industry



Key Legislative Milestones

- Tax Cuts & Jobs Act (Dec. 2017)
- President Biden's Budget (April – May 2021)
 - *aka* American Jobs Plan/American Families Plan
 - *aka* Build Back Better agenda
- FY 2022 Concurrent Budget Resolution (Aug. 2021)
- House Ways and Means Committee Tax Bill (Sept. 2021)
- Build Back Better Act (Revised House Bill) (Nov. 2021)
- Bipartisan Infrastructure Bill (Nov. 2021)
- Where are we now....almost 4 years after TCJA...(Dec. 2021)

Build Back Better bill



Credits & incentives

Infrastructure bill

Upcoming Changes

POLLING QUESTION #1

Do you invest in or own real estate as part of the operations of your business?

A

Yes, we invest

B

Yes, use in operations

C

No

Real Estate Industry Tax Priorities

- Preserve like-kind exchanges – 1031
- Ensure equitable tax treatment for pass-through businesses
- Avoid double taxation of real estate gains at death
- Encourage investment and job creation with a meaningful capital gains incentive
- Reward risk-taking and reject tax changes that limit capital gains treatment to invested cash and debt
- Real estate – critical to jobs; strong, sustainable and healthy communities; and economic growth



Investment Partnerships



POLLING QUESTION #2

Do you use partnership entities in your business or investment structure?

A

Yes

B

No

C

I'm not sure

Investment Partnerships

- PPP Loan Guidance – Revenue Procedure 2020-48, -49, and -50
- Sen. Wyden Proposal Recap
- Partnership Compliance
 - Increased reporting over the last several years – Tax basis capital, Built-in gains/losses
 - 1061 Guidance: Carried Interest
 - Schedule K-2, K-3

Real Estate Industry Tax Hot Topics

TCJA....Sunsetting Provisions

- 163(j) change – computing ATI
- Phase-down of Bonus Depreciation
- 199A – 20% pass-through income exemption
- Opportunity Zones
- IRC 174

Build Back Better Framework

- 5% Surtax on incomes over \$10M
- 3% Surtax on incomes over \$25M
- 3.8% Net Investment Income Tax expansion
- Excess Business Losses made permanent & loss carryforward as EBL vs. NOL
- Portfolio Interest Exemption ownership test broadened to “10% of vote or value”
- Affordable Housing and related credits
- SALT Cap increase

Tax Opportunities



POLLING QUESTION #3

Have you evaluated tax planning opportunities post-Tax Cuts & Jobs Act (enacted in December 2017)?

A

Yes

B

No

C

I'm not sure

Bonus Depreciation

The Tax Cuts and Jobs Act of 2017

- A. Under current law, 100% bonus depreciation will be phased out in steps for property placed in service in calendar years 2023 through 2027.
- B. 80% rate will apply to property placed in service in 2023,
- C. 60% in 2024,
- D. 40% 2025,
- E. 20% 2026, and a
- F. 0% rate will apply in 2027 and later years.

Bonus depreciation planning

- A. Potential tax rate changes = potential permanent tax savings
- B. Election out of bonus – low tax rate year preserve depreciation in high tax rate year
- C. Tax basis preservation
- D. Loss limitation considerations

Cost Segregation

- A. Overview
- B. Tax planning – changing tax rates
- C. Form 3115s
- D. Tax basis considerations
- E. Opportunity Zones
 - 1. Combine cost segregation and Opportunity Zones
 - 2. Defer or eliminate capital gains taxes on property held Qualified Opportunity Fund



Section 179D

A. Overview

B. Build Back Better Changes

1. Increase in maximum deduction
2. New ASHRAE efficiency standard
3. Wage and apprenticeship requirements

C. Areas of opportunity

D. Tax Basis considerations

E. Tax rate planning



Energy Efficiency Tax Incentives

POLLING QUESTION #4

Are your investors, stakeholders, tenants, family, or friends talking about ESG?

A

Yes

B

No

C

I'm not sure

Energy Efficiency Tax Incentives

- A. Solar Tax Credits
- B. GeoThermal
- C. Section 45L – Housing Credits
- D. Rehabilitation Tax Credits



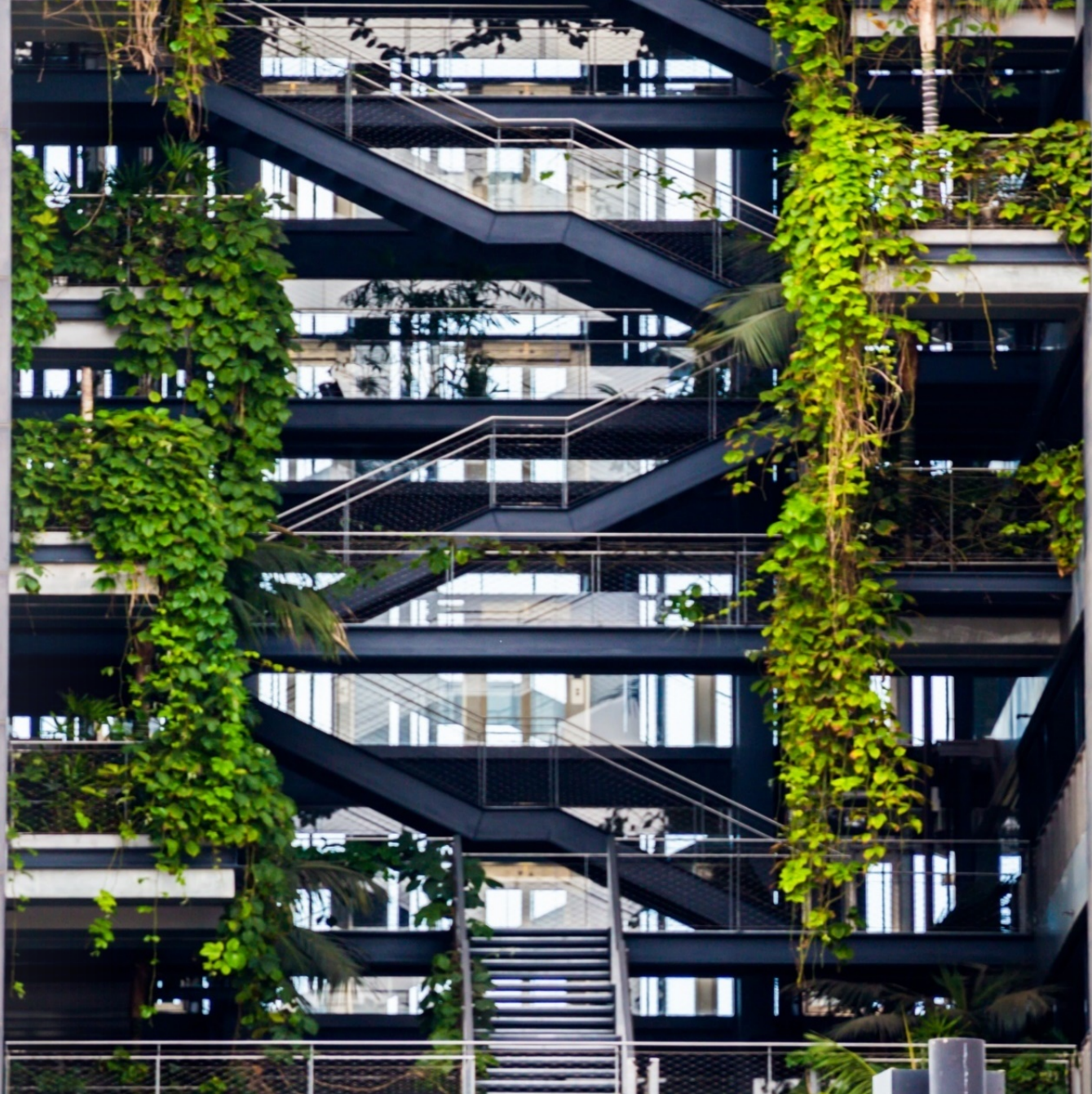
Infrastructure Spending Demand Drivers

Infrastructure bill spending \$550 billion...at a glance

- Roads, bridges \$110 billion
- Public transit \$39 billion
- Railways \$66 billion
- Power grids \$73 billion
- Electric vehicles \$7.5 billion
- Electric buses, ferries \$7.5 billion
- Airports, waterways \$42 billion
- Resilience, climate change \$50 billion
- Drinking water \$55 billion
- Broadband internet \$65 billion
- Environmental spending \$21 billion
- Transportation safety \$11 billion



Bringing It All Together



Build Back Better bill



Bringing it all Together....

Where are you on the pyramid...

Embrace Volatility...

Credits & incentives

Infrastructure bill



Thank you

Tim Trifilo

Partner, Tax

+1 202 552 8036

timothy.trifilo@crowe.com

Michael Schindler

Principal,

Washington National Tax

+1 973 422 4558

michael.schindler@crowe.com

Devin Hall

Partner, Tax

+1 346 308 8501

devin.hall@crowe.com