Tax reform is front and center on the congressional agenda, and there is a real chance it will become law this year. The last comprehensive tax reform legislation was the Tax Reform Act of 1986 (TRA 1986) signed into law 30 years ago by President Ronald Reagan. We all remember how that bill devastated the industry for years, so it is imperative that we engage with policymakers to ensure a more positive outcome.

In the years since TRA 1986, legislation has changed the tax code—mainly at the margins—focusing on rate changes and other targeted pro visions while comprehensive reform has eluded policymakers.

The election of Donald Trump and continued Republican control of the Congress has changed the outlook for tax reform. One-party rule where reform is a priority for all of the key players has increased the odds that broad-based legis lation can become law.

At this stage of the process, House Republicans are taking the lead on reform. While President Trump made a number of proposals during the 2016 campaign, it is House Republicans who have put forward the most detailed plan. Entitled “A Better Way Forward for Tax Reform,” the House GOP released a “blueprint” for reform last summer, which is the starting point for their internal discussions. The blueprint would:

• Reduce the top tax rate on LLCs, partnerships, S Corporations and other pass-thru entities to 25 percent from 39.6 percent;
• Tax capital gains, dividends, and interest at a maximum rate of 16.5 percent;
• Replace depreciation with immediate expensing of all investment except for land;
• Eliminate the deduction for business interest;
• Eliminate like-kind exchanges;
• Eliminate the Low-Income Housing Tax Credit; and
• Repeal the estate tax while retaining stepped-up basis for inherited assets.

It is important to note that while the Blueprint appears to eliminate the Low-Income Housing Tax Credit (LIHTC), there are good indications it may be put back into the House GOP proposal.

As the most developed tax reform product in circulation at the moment, the Blueprint is the centerpiece of conversation around tax reform. However, it is not yet legislation, and there could be significant changes made before an actual bill is introduced.

Moreover, the White House and Senate still need to flesh out their own proposals. There is much time to go before a reform agree ment is reached, if at all, and we can expect the details of any agreement to change several times along the way.

For our part, the apartment housing industry’s primary objective in reform is to support legislation that promotes economic growth and investment in rental housing without unfairly burdening apartment owners and renters relative to other asset classes. To this end, we are pushing lawmakers to ensure the following priorities are reflected in any bill that moves forward.

Tax reform must protect “flow-through entities” (e.g., LLCs, partnerships, S Corporations, etc.), which are the dominant business structure in our industry.

Under this model, a firm’s earnings are passed through to the partners who pay taxes on their individual tax returns. Accordingly, Congress must not reduce corporate tax rates financed by forcing flow through entities to pay higher taxes by subjecting them to a corporate-level tax or by denying credits and deductions.

It is also a priority for the apartment housing industry to maintain “like-kind exchanges” where property owners can defer tax on the gain on sale of an asset if, instead of selling their property, they exchange it for another comparable prop erty. These rules encourage property owners to remain invested in the real estate market. Such an important tool for investment must be maintained in a reformed tax code. Notably, with the exception of land, the expensing proposal in the House Republican Blueprint provides for de facto like-kind exchanges.

Tax reform should also take care to preserve investment incentives. Borrowing is a central part of how apartment housing is financed (a typical development project could be financed with 1/3 capital and 2/3 debt and the tax code has long provided a full deduction for interest). Indeed, without business interest deductibility, the cost of debt financing would increase and shift many real estate business models. This would inhibit devel opment activity at a time when we face significant affordability challenges.

Policymakers should also take care when making changes to cost recovery rules like depreciation so they do not harm real estate investment. Apartment buildings are currently depreciated on a 27.5-year schedule. While House Republicans are proposing to allow buildings to be immediately expensed, others have suggested extending the current law depreciation period. This would surely lead to reduced development and invest ment and ultimately undermine real estate values and stifle job creation.

Finally, protecting the Low-Income Housing Tax Credit (LIHTC) is a priority for the apartment housing industry. The LIHTC is the central vehicle producing housing for moderate- and low-income families. We are in a period of crisis in housing affordability and need stronger incentives like the LIHTC to effectively respond. This program must remain a vital part of the strategy to address our nation’s housing needs.

You will notice some overlap between what is being proposed, at least in the House GOP Blue print, and the apartment housing industry’s priorities. It is important to remember that policy makers are truly looking to reshape how taxes are levied in this country and that perhaps what they propose could effectively replace what is in the tax code now and keep the apartment housing industry whole. We remain open minded on this point as we continue to press for our top priorities and evaluate in detail what tax reform proposals mean for our business.

Every member of the apartment housing industry must be engaged in the advocacy campaign on tax reform. That means contacting your members of Congress and communicating our message.

Changes to the tax code will impact all of us, and it is our responsibility to ensure whatever reform is passed does not harm our ability to provide housing to one-third of the nation. To learn more about how you can get involved in shaping the debate, contact Peter Fromknecht at pfromknecht@naahq.org and take our Advocacy Interview at http://re.spon.se/OTmUtG to see who you might know on Capitol Hill! Your relationships with lawmakers and your willingness to act on those relationships will make the difference between success and failure on tax reform.