

# STANDING GUARD

## ACCA's WEEKLY GOVERNMENT RELATIONS UPDATE

September 26, 2017

### **TAXES: THANK YOU HEAT ACT ADVOCACY AMBASSADORS**

ACCA would like to thank our members for weighing in with your Members of Congress on the Heat Act. **Thank you for being Advocacy Ambassadors!** If you have not done so- please let your voice be heard now (see **TAKE ACTION** directions below).

### **TAKE ACTION ALERT: TURN UP THE HEAT ON CONGRESS**

CONTACT YOUR CONGRESSMAN, and ask them to support the HEAT Act.

H.R. 3515, the HVAC Expensing and Technology (HEAT) Act would allow commercial building owners to immediately expense HVACR equipment, instead of writing it off over the current 39-year requirement. Allowing building owners to immediately expense their investments in commercial HVACR products will be a HUGE business catalyst.

ACCA is on Capitol Hill seeking support from your Members of Congress, but they need to hear from you too. We need less than 60 seconds of your time to reinforce our message.

We urge all ACCA members to [act now](#) and to share this **TAKE ACTION** alert with your team and customers so we can make this commonsense fix to the tax code that will greatly benefit our industry.

### **Background:**

The HEAT Act is a tax reform bill that allows qualified energy-efficient HVAC equipment to be eligible for expensing by commercial building owners under Section 179. This bipartisan legislation aims to fulfill the intended effect of the 2015 PATH Act, and will allow small businesses to invest in updated, cost-saving equipment rather than keep inefficient and costly units that can often be decades old.

### **TAX & HEALTHCARE: REFORM & REPEAL PROPONENTS ARE ON PINS & NEEDLES**

The Senate has the town to themselves this week as the House is out on another break. It seems a bit like déjà vu all over again as the Senate is just going to take another week to mull over their latest push to repeal Obamacare. Congress now has less than two weeks to roll back the Affordable Care Act with just a majority vote in the Senate, and Majority Leader Mitch McConnell. Currently the plan is to bring a measure from Sens. Bill Cassidy (R-LA) and Lindsey Graham (R-SC) to the floor if it has at least 50 votes. After that, the Senate could give its full attention to tax reform.

ACCA has expressed our concern over the Senate dropping the ball on tax reform, and we are not alone. Case in point: [This editorial](#) from The Washington Examiner, which also seems to suggest that tax reform shouldn't be all that difficult. "With what seems like widespread agreement, at least on major principles, it's ridiculous that a bill hasn't even been introduced yet, and won't be by the end of the month."

### **TAXES: DO YOU THINK CONGRESS SHOULD TAX YOU ON YOUR ADVERTISING?**

ACCA doesn't, and joined forces with some powerful allies to ensure 100% of your businesses advertising expenses are fully deductible. To learn more visit [BAAD.TAX.ORG](http://BAAD.TAX.ORG)

### **What is the Ad Tax?**

As it stands now, every dollar a company spends on advertising, both traditional and digital, is 100% deductible just like other expenses related to the cost of doing business, such as rent and computers. Businesses depend

on advertising as an essential pillar of their operations, and it has been tax deductible for over 100 years. But all that could change.

In the last few years, various legislators have proposed taking away businesses' advertising deduction as a means of raising revenue. Essentially, that's a tax on advertising. Industry groups and a bipartisan group of legislators have pushed back, arguing an ad tax would hurt businesses at the heart of American communities, as well as local media such as newspapers, radio and television.

#### **What's the story behind the ad tax?**

For several years now, Congress has been exploring ways to raise more revenue through tax reform. Draft proposals introduced in 2013 by former Senate Finance Committee Chairman Max Baucus (D-Mont.) and in 2014 by former House Ways and Means Committee Chair Rep. Dave Camp (R-Mich.) would cut the advertising deduction by 50%, with the rest amortized over 10 years.

Both the House Ways and Means Committee and the Senate Finance Committee are currently holding hearings on tax reform. The hunt for revenue is still on.

#### **What do businesses stand to lose?**

If a company has a \$500,000 ad budget, for example, and the ad tax proposal is passed, the business will have to pay tax on \$250,000 more of their net income. That's a lot of profit going into the government's pocket. Less money in the hands of businesses would hurt their ability to hire employees and invest in growth.

#### **What does Congress think can be gained from an ad tax?**

Congress believes the ad tax would net them a cash crop of \$169 billion over the next several years.

Most of that will come from small and medium-sized businesses, since big corporations can advocate for other changes to the tax code to offset the impact on their taxes. The little guys can't. Don't stand by and let Congress take a bite out of your business.

### **TAXES: ACCA SUBMITS STATEMENT FOR THE RECORD ON TAX REFORM**

The Senate Finance Committee's hearing on Business Tax Reform, which was held September 19 allowed ACCA the opportunity to join forces with a handful of other likeminded associations and submit a statement for the record. That letter can be found below:

Dear Chairman Roskam and Ranking Member Doggett:

We are submitting the following statement for the record in response to the House Ways and Means Subcommittee on Tax Policy's hearing on July 13, 2017 entitled *How Tax Reform Will Help America's Small Businesses Grow and Create New Jobs*. As you consider ways to create jobs, grow the economy, and raise wages through tax reform, we strongly urge that current law be retained regarding like-kind exchanges under section 1031 of the Internal Revenue Code ("Code"). We further encourage retention of the current unlimited amount of gain deferral.

Like-kind exchanges are integral to the efficient operation and ongoing vitality of thousands of American businesses, which in turn strengthen the U.S. economy and create jobs. Like-kind exchanges allow taxpayers to exchange their property for more productive like-kind property, to diversify or consolidate holdings, and to transition to meet changing business needs. Specifically, section 1031 provides that taxpayers do not immediately recognize a gain or loss when they exchange assets for "like-kind" property that will be used in their trade or business. They do immediately recognize gain, however, to the extent that cash or other "boot" is received. Importantly, like-kind exchanges are similar to other non-recognition and tax deferral provisions in the Code because they result in no change to the economic position of the taxpayer.

Since 1921, like-kind exchanges have encouraged capital investment in the U.S. by allowing funds to be reinvested back into the enterprise, which is the very reason section 1031 was enacted in the first place. This continuity of investment not only benefits the companies making the like-kind exchanges, but also suppliers, manufacturers, and others facilitating them. Like-kind exchanges ensure both the best use of real estate and a new and used personal property market that significantly benefits start-ups and small businesses. Eliminating like-kind exchanges or restricting their use would have a contraction effect on our economy by increasing the cost of capital, slowing the rate of investment, increasing asset holding periods and reducing transactional activity.

A 2015 macroeconomic analysis by Ernst & Young found that either repeal or limitation of like-kind exchanges could lead to a decline in U.S. GDP of up to \$13.1 billion annually.<sup>1</sup> The Ernst &

1 *Economic Impact of Repealing Like-Kind Exchange Rules*, ERNST & YOUNG (March 2015, Revised November 2015), at (iii), available at <http://www.1031taxreform.com/wp-content/uploads/Ling-Petrova-Economic-Impact-of-Repealing-or-Limiting-Section-1031-in-Real-Estate.pdf>. 2

Young study quantified the benefit of like-kind exchanges to the U.S. economy by recognizing that the exchange transaction is a catalyst for a broad stream of economic activity involving businesses and service providers that are ancillary to the exchange transaction, such as brokers, appraisers, insurers, lenders, contractors, manufacturers, etc. A 2016 report by the Tax Foundation estimated even greater economic contraction—a loss of 0.10% of GDP, equivalent to \$18 billion annually.<sup>2</sup>

Companies in a wide range of industries, business structures, and sizes rely on the like-kind exchange provision of the Code. These businesses—which include real estate, construction, agricultural, transportation, farm / heavy equipment / vehicle rental, leasing and manufacturing—provide essential products and services to U.S. consumers and are an integral part of our economy.

A microeconomic study by researchers at the University of Florida and Syracuse University, focused on commercial real estate, supports that without like-kind exchanges, businesses and entrepreneurs would have less incentive and ability to make real estate and other capital investments.<sup>3</sup> The immediate recognition of gain upon the disposition of property being replaced would impair cash flow and could make it uneconomical to replace that asset. This study further found that taxpayers engaged in a like-kind exchange make significantly greater investments in replacement property than non-exchanging buyers.

Both studies support that jobs are created through the greater investment, capital expenditures and transactional velocity that are associated with exchange properties. A \$1 million limitation of gain deferral per year, as proposed by the Obama Administration<sup>4</sup>, would be particularly harmful to the economic stream generated by like-kind exchanges of commercial real estate, agricultural land, and vehicle /equipment leasing. These properties and businesses generate substantial gains due to the size and value of the properties or the volume of depreciated assets that are exchanged. A limitation on deferral would have the same negative impacts as repeal of section 1031 on these larger exchanges. Transfers of large shopping centers, office complexes, multifamily properties or hotel properties generate economic activity and taxable revenue for architects, brokers, leasing agents, contractors, decorators, suppliers, attorneys, accountants, title and property /casualty insurers, marketing agents, appraisers, surveyors, lenders, exchange facilitators and more. Similarly, high volume equipment rental and leasing provides jobs for rental and leasing agents, dealers, manufacturers, after-market outfitters, banks, servicing agents, and provides inventories of affordable used assets for small businesses and taxpayers of modest means. Turnover of assets key to all of this economic activity.

In summary, there is strong economic rationale, supported by recent analytical research, for the like-kind exchange provision's nearly 100-year existence in the Code. Limitation or repeal of section 1031 would deter and, in many cases, prohibit continued and new real estate and capital

<sup>2</sup>*Options for Reforming America's Tax Code*, Tax Foundation (June, 2016) at p. 79, available at <http://taxfoundation.org/article/options-reforming-americas-tax-code>.<sup>3</sup>David Ling and Milena Petrova, *The Economic Impact of Repealing or Limiting Section 1031 Like-Kind Exchanges in Real Estate* (March 2015, revised June 2015), at 5, available at <http://www.1031taxreform.com/wp-content/uploads/Ling-Petrova-Economic-Impact-of-Repealing-or-Limiting-Section-1031-in-Real-Estate.pdf>.<sup>4</sup>*General Explanations of the Administration's Fiscal Year 2017 Revenue Proposals*, at 107, available at <https://www.treasury.gov/resource-center/tax-policy/Documents/General-Explanations-FY2017.pdf>.

investment. These adverse effects on the U.S. economy would likely not be offset by lower tax rates. Finally, like-kind exchanges promote uniformly agreed upon tax reform goals such as economic growth, job creation and increased competitiveness.

Thank you for your consideration of this important matter.

Sincerely,

Air Conditioning Contractors of America  
American Car Rental Association  
American Rental Association  
American Seniors Housing Association  
American Truck Dealers  
American Trucking Associations  
Associated Equipment Distributors  
Associated General Contractors of America  
Avis Budget Group, Inc.  
Building Owners and Managers Association (BOMA) International  
C.R. England, Inc.  
Equipment Leasing and Finance Association  
Federation of Exchange Accommodators  
International Council of Shopping Centers  
Investment Program Association  
NAIOP, the Commercial Real Estate Development Association  
National Apartment Association  
National Association of Home Builders  
National Association of Real Estate Investment Trusts  
National Association of REALTORS®  
National Automobile Dealers Association  
National Business Aviation Association  
National Multifamily Housing Council  
National Ready Mixed Concrete Association  
National Stone, Sand and Gravel Association  
Truck Renting and Leasing Association

#### **HEALTHCARE: SENATE OBAMACARE REPEAL FAIL**

The Senate Republican's latest effort to repeal Obamacare before Sept. 30 appear all but dead - but also look more and more likely to bleed into the next fiscal year. That could also mean trying to deal with health care and tax reform in tandem.

ACCA remains hopeful the Senate parliamentarian will rule that the repeal push under fiscal 2017 must die after Sept. 30, and Republicans could provide reconciliation instructions for both health care and tax reform in the fiscal 2018 budget resolution that Congress must pass to again unlock the fast-track procedural powers. This plan has some procedural hurdles, but one is one option being batted around.

#### **REGULATIONS & REFRIGERANTS**

##### **ARE YOU PREPARED FOR THE JANUARY 2018 DEADLINE?**

What ACCA Members Need To Know About EPA's New 608 Refrigerant Management Regulations, was the lead story back on September 28, 2016 for ACCA members. We followed up a few weeks later with a webinar with EPA's experts to talk through these changes with our members. With the 2018 Deadline, just a few months away we wanted to remind our of these powerful tools to help you prepare, and wade through the hype.

<http://www.acca.org/members/gov/updates/09282016>

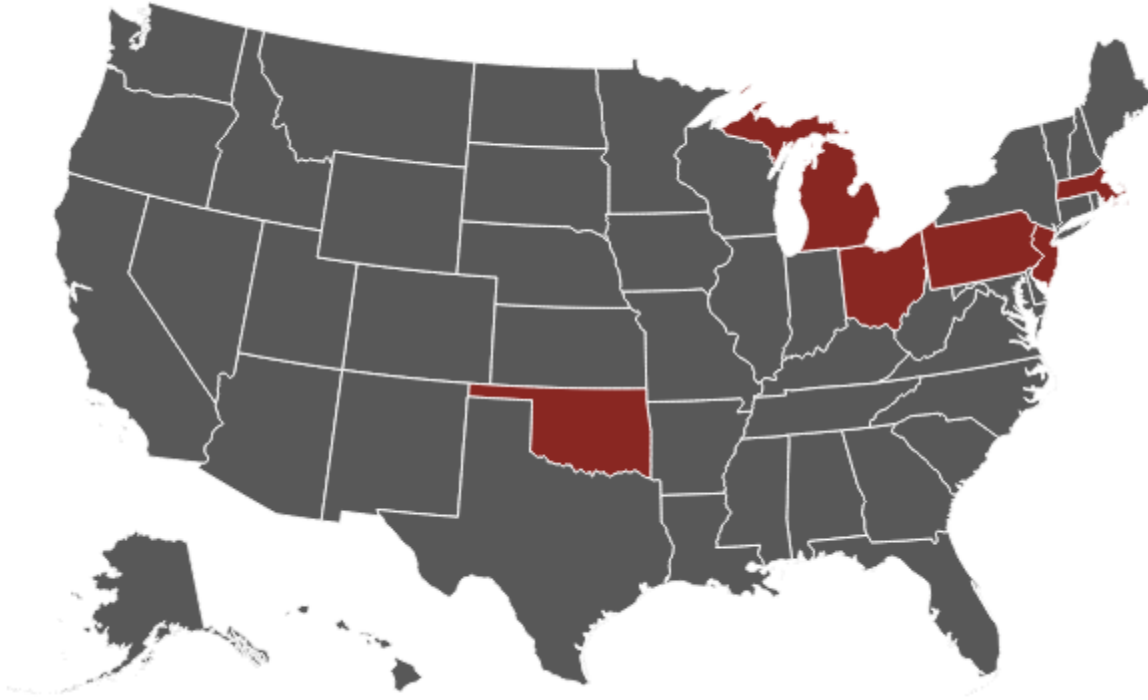
[New Refrigerant Rules from the EPA- What You Need to Know Now! Webinar Oct 11, 2016](#)

## MEDIA COVERAGE OF ACCA'S GOVERNMENT RELATIONS WORK

- **How You're A/C Plays Catch-Up to Regulations**
  - [https://www.axios.com/environment-regulations-air-conditioner-costs-2484827432.html?utm\\_source=newsletter&utm\\_medium=email&utm\\_campaign=newsletter\\_axiosam&stream=top-stories](https://www.axios.com/environment-regulations-air-conditioner-costs-2484827432.html?utm_source=newsletter&utm_medium=email&utm_campaign=newsletter_axiosam&stream=top-stories)
  - The manufacturing industry is working to change building codes to allow new air conditioners with the mildly flammable refrigerants. **That's prompting alarm among a separate set of companies that install the equipment.**
  - "We have been concerned for contractor and consumer safety with the risk of slightly flammable refrigerants leaking into people's homes," **said Don Prather, technical services manager with the Air Conditioning Contractors of America, a trade group.** "We recognize there are so many contractors out there doing a poor job of installing the equipment, which creates an opportunity for more leaks."
  - **NOTE:** Todd continues to reach out to this reporter to inform her about ENERGY STAR and quality installation practices
- **The HEAT is On in Congress**
  - [ACCA's Bart James featured in this ACHR News Piece](#)
  - The HVACR Industry Alliance — a coalition of 11 national HVACR trade associations, including ACCA; Air-Conditioning, Heating and Refrigeration Institute (AHRI); ASHRAE; Heating, Air-Conditioning, and Refrigeration Distributors International (HARDI); Sheet Metal and Air Conditioning Contractors National Association (SMACNA); and others — has been working tirelessly for quite some time on behalf of this bill.
- **ACCA Mentioned in Y'all Politics**
  - Wicker Introduces Workforce Development Legislation
  - <http://yallpolitics.com/index.php/yp/post/47893>

## STATE UPDATES

For the week of September 25 2017 **6** state legislatures are actively meeting this week:



Wondering who are your elected officials? The easiest way to obtain this information is to visit <http://acca.mmp2.org/my-government> and fill in your address. ACCA's advocacy website lists your federal and state elected officials and their contact information. Do not be shy about calling or e-mailing your Members of Congress or state legislators... even if you're calling them about something not related to the HVAC industry. Elected officials like to hear from the business owners and job creators in their districts. So let them know what's on your mind!

For additional information on ACCA's state and local government affairs efforts, please contact Todd Washam, ACCA's Director of Industry Relations at [todd.washam@acca.org](mailto:todd.washam@acca.org).



### ABOUT THE

*Barton James is senior vice president for government relations with ACCA. In this role, he promotes and protects the interests of HVACR contractors and the industry before Congress and the Administration, and oversees the association's political advocacy operations and ACCA-PAC.*

