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The One Big Beautiful Bill Act: Analysis of Key Provisions for the Real Estate Industry

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On July 4, 2025, President Donald Trump signed H.R. 1 into law, the budget reconciliation bill known as the One Big Beautiful Bill Act (the Act). As discussed in our prior alert released following the passage by the House of Representatives of the original One Big Beautiful Bill (the Initial House Bill), the Act as signed into law includes amendments to the Internal Revenue Code (the Code) that could have significant consequences for both individuals and businesses. Below is a summary of the key changes under the Act that will impact the real estate industry and real estate funds, noting where relevant the differences between the Initial House Bill and the Act as signed into law.

I. Qualified Business Income Deduction (Code Section 199A)

- Law Prior to Enactment of the Act – Code Section 199A allows certain individuals, trusts, and estates to deduct 20% of their qualified business income (QBI) from pass-through entities, as well as qualified REIT dividends (generally any REIT dividend that is not a capital gain dividend or qualified dividend income, subject to holding periods) and publicly traded partnership income. If a taxpayer's income exceeds a certain threshold, the Code Section 199A deduction is subject to limitations based on W-2 wages and the unadjusted basis of qualified property, while income from specified service trades or businesses is generally disregarded. The Code Section 199A deduction is set to expire after 2025. The 20% deduction results in a federal effective tax rate of as low as 29.6%. This has been a significant benefit to certain real estate investment funds, particularly those that own interests in REITs as well as funds with rental income from a trade or business.
- Act Rule – The Act, like the Initial House Bill, makes the Code Section 199A deduction permanent; however, the Act leaves the deduction rate for this provision at 20% (while the Initial House Bill would have increased this percentage to 23%). In addition, the Act increases certain phase-out income thresholds of an otherwise permitted Code Section 199A deduction for higher income taxpayers, a taxpayer-favorable change that increases the number of taxpayers potentially eligible for a deduction under the provision. While the Initial House Bill also included a taxpayer-favorable provision related to these phase-out provisions, the mechanics of the Act differ from those set forth in the Initial House Bill. Finally, the Act implements a $400 minimum Code Section 199A deduction for certain active business income (with such amount indexed for inflation in later years), but does not include a provision, as contained in the Initial House Bill, making certain dividends from electing "business development companies" (certain regulated investment companies) potentially includible within QBI. The changes made by the Act to Section 199A apply generally to taxable years beginning after 2025.
- *Troutman Take – The Act offers permanent and uninterrupted tax reductions for investors holding real estate assets through pass-through and REIT fund structures. It also preserves the deduction for qualified REIT dividends. This permanence makes such structures even more attractive for certain investors.*

II. Deduction for Qualified Production Property

- Law Prior to Enactment of the Act – Nonresidential real property is generally depreciated over a 39-year period.
- Act Rule – As first set forth in the Initial House Bill, the Act includes a new elective deduction for 100% of the cost of "qualified production property" in the year such property is placed in service. Qualified production property generally includes nonresidential real property that is otherwise depreciable and meets the following criteria: (i) it is used by a taxpayer as an integral part of a "qualified production activity" (*i.e.*, the manufacturing, production, or refining of any tangible personal property if such property is not a food or beverage prepared in the same building as a retail establishment in which such property is sold), (ii) it is placed in service in the United States, (iii) its original use commences with the taxpayer, (iv) construction begins between January 20, 2025, and December 31, 2028, and (v) it is placed in service by December 31, 2030 (up from December 31, 2032 under the Initial House Bill). This deduction is also available to purchasers of qualified production property that begin construction within the specified dates where the property has not previously been used in a qualified production activity. Additionally, a taxpayer can avoid depreciation recapture if the qualified production property is held for at least 10 years.
- *Troutman Take – The acceleration of cost recovery for industrial and manufacturing facilities marks a substantial shift from existing law prior to enactment of the Act and is intended to encourage domestic manufacturing and production. The Act generally follows the bonus depreciation rules for qualified production property originally introduced in the Initial House Bill.*

III. Bonus Depreciation

- Law Prior to Enactment of the Act – The Tax Cuts and Jobs Act increased the additional first-year depreciation deduction to 100% for certain qualified property placed in service by December 31, 2022, which rate was set to reduce by 20% per year thereafter, and fully phase out in 2027. For qualified property placed in service in 2025, the allowed first-year depreciation deduction was 40%.
- Act Rule – The Act eliminates the current phase-out and permanently restores taxpayers' ability to immediately expense 100% of the cost of certain qualified property placed in service after January 20, 2025 (whereas the Initial House Bill would have allowed 100% bonus depreciation to sunset for property placed in service after December 31, 2029).
- *Troutman Take – The restoration of 100% bonus depreciation for certain real estate assets that are not otherwise eligible for expensing under the rules for "qualified production property" could provide a significant tax reduction for real estate developers, especially since the Act makes such treatment permanent (compared to the temporary extension under the Initial House Bill).*

IV. Increased Limitation for Expensing Certain Depreciable Assets

- Law Prior to Enactment of the Act – Code Section 179 allows taxpayers to elect to expense the cost of qualifying tangible personal property and certain qualified real property placed in service during the tax year, up to an annual inflation-adjusted dollar limit ($1.25 million for 2025), with such limit phasing out dollar-for-dollar as the total cost of qualifying property placed in service exceeds an inflation-adjusted threshold ($3.13 million for 2025). This deduction is further limited to the amount of taxable income from the active conduct of a trade or business.
- Act Rule – The Act, like the Initial House Bill before it, raises the maximum amount a taxpayer can expense under Section 179 to $2.5 million and increases the phaseout threshold to $4 million.
- *Troutman Take – Increasing the limits on this deduction could lead to substantial tax benefits for real estate developers, potentially stimulating increased development activity in the sector.*

V. Excess Business Losses Limitation Made Permanent

- Law Prior to Enactment of the Act – The excess business loss limitation under Code Section 461(l) disallows noncorporate taxpayers from claiming "excess businesses losses" — aggregate deductions attributable to trades or businesses over the sum of aggregate gross income or gain from those trades or businesses, plus an

annual threshold amount ($313,000 for single filers and $626,000 for joint filers in 2025, adjusted for inflation). Any disallowed excess business loss is treated as a net operating loss carryover to subsequent years, subject to any applicable limitations, and is not taken into account in determining the excess business loss in subsequent years. The excess business loss limitation was set to expire after 2028, meaning that such losses would not be limited beyond that time.

- Act Rule – As was the case under the Initial House Bill, the Act makes the excess business loss limitation permanent. However, while the Initial House Bill would have required excess business losses after December 31, 2024 to be included in a taxpayer's calculation of aggregate deductions attributable to a taxpayer's trade or business in the following year, such requirement was removed from the Act as signed into law.
- *Troutman Take – The Act extends the excess business loss limitation beyond the anticipated 2028 sunset date. Taxpayers will have to account for this in tax planning.*

VI. Updated Qualified Opportunity Zones

- Law Prior to Enactment of the Act – Qualified opportunity zones (QOZs) are designated low-income census tracts where investments may receive preferential tax treatment if made through a qualified opportunity fund (QOF) that invests at least 90% of its assets in qualified opportunity zone property. Taxpayers could defer eligible capital gains until December 31, 2026 by investing them in a QOF within 180 days of the gain's recognition, with the potential for partial exclusion of the deferred gain if the investment was held for at least five (10% exclusion) or seven years (additional 5% exclusion) (the five and seven year holding periods had to be met prior to December 31, 2026, so this benefit has not been available for several years), and a full exclusion of post-investment appreciation if held for at least 10 years. QOZ designations are set to expire on December 31, 2028.
- Act Rule – The Act permanently renews the QOZ program and introduces new, rolling 10-year periods for QOZ designations, with governors designating new QOZs every 10 years beginning July 1, 2026 ("Decennial Determination Dates") and with the first new designations taking effect January 1, 2027. Under the Act, gains invested in a QOF on or after January 1, 2027 will be deferred for up to five years. The deferral will not cut off at a fixed date (like the December 31, 2026 date under prior law). Rather there will be a rolling 5 year deferral from the date a taxpayer makes an investment in a QOF. Like the Initial House Bill, the Act retains both (i) the 10% exclusion of invested gain for investments held for at least five years and (ii) the full exclusion of post-investment appreciation for investments held for at least 10 years, but removes the additional 5% exclusion for investments held for at least seven years. Similarly to the Initial House Bill, the QOZ program under the Act places a greater emphasis on rural areas, deeming certain QOZs to constitute qualified rural opportunity zones (QROZs), providing a 30% invested gain exclusion (in place of the five-year 10% exclusion) for investments in QOFs heavily invested in QROZs, and reducing the substantial improvement threshold for existing property in a QROZ. However, unlike the Initial House Bill, the Act does not permit ordinary income to be eligible for investment and deferral. Both QOFs and "qualified opportunity zone businesses" would be subject to enhanced reporting requirements under the Act.
- *Troutman Take – The permanent renewal of the QOZ program is welcome news for real estate funds and investors seeking tax-efficient investment and is a welcome change from the Initial House Bill (which would have provided only a temporary extension). The Act does not extend the deferral of gain for investments in a QOF before January 1, 2027. Consequently, any gains deferred under the existing QOZ program would be recognized as income on December 31, 2026. Moving forward, QOFs and "qualified opportunity zone businesses" should be aware of the enhanced reporting requirements under the Act and plan for any resulting administrative costs.*

VII. Revisions to REIT Asset Test

- Law Prior to Enactment of the Act – Under Code Section 856, no more than 20% of the value of the assets of a REIT may consist of securities of one or more taxable REIT subsidiaries.
- Act Rule – Like the House Bill before it, the Act increases the value of securities of taxable REIT subsidiaries that a REIT can own from 20% to 25%.

- *Troutman Take – This change to the asset test will provide more flexibility to REITs with structures that include taxable REIT subsidiaries with significant value. In particular, the expansion will make it easier for REITs with foreign assets and operations (which are often housed in entities taxed as corporations for U.S. federal income tax purposes) to comply with the REIT rules.*

VIII. Removal of Retaliatory Tax on Certain Foreign Investors.

- Act Rule – The Initial House Bill included new Code Section 899, which would have imposed a retaliatory tax (from 5% to as high as 20%) on persons that are residents of or otherwise have sufficient nexus with foreign countries that, in the view of the House of Representatives, unfairly target and impose discriminatory taxes on U.S. taxpayers doing business abroad. However, Code Section 899 was removed from the Act prior to its enactment.
- *Troutman Take – Code Section 899 would have created a significant challenge for real estate funds with foreign investors. The Act's removal of such proposed provision is a taxpayer favorable change and good news for such funds and their investors.*

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