April 16, 2021

Thomas Barthold
Chief of Staff
Joint Committee on Taxation
502 Ford House Office Building
Washington, DC 20515

Re: Proposal to make permanent the Mortgage Insurance Premium Deduction and to eliminate the Adjusted Gross Income phase out

Dear Derek:

I would like to discuss a legislative proposal (included as **Annex A**, along with a fuller description of and proposed reason for the change included as **Annex B**) dealing with the current-law treatment of the Mortgage Insurance Premium Deduction.

By way of additional background, U.S. Mortgage Insurers (USMI) is a trade association that represents America's leading private mortgage insurance (MI) companies. Our members are dedicated to a housing finance system backed by private capital that enables broad access to affordable housing finance for borrowers while protecting taxpayers. The private MI industry is focused on ensuring that creditworthy borrowers continue to have access to affordable and sustainable mortgages within a well-functioning U.S. housing finance system. For nearly 65 years, private MI has helped more than 35 million people purchase a home or refinance an existing mortgage, including more than two million families in 2020 alone.

Low down payment mortgages are critical for many families, most notably first-time, lower wealth, and minority homebuyers, to secure financing and attain the American Dream of homeownership. Affordability remains a persistent barrier to homeownership across the country and MI helps bridge the down payment gap for borrowers who lack the resources for a 20 percent down payment or have less than perfect credit. In 2020 alone, approximately 4.8 million families obtained mortgages with some form of MI, including more than two million conventional mortgages with private MI, nearly 1.4 million mortgages insured by the Federal Housing Administration (FHA), and nearly 1.4 million mortgages guaranteed by the U.S. Department of Veterans Affairs (VA). Further, the vast majority of borrowers with MI are first-time homebuyers, traditionally the driving force of the housing market. For purchase mortgages originated in 2020, nearly 60% of mortgage with private MI, 85% of FHA-insured mortgages, and 50% of VA-guaranteed loans went to first-time homebuyers.[1]

Mortgage insurance premiums, including private MI and government MI through the FHA and VA, have been deductible since 2007, having been extended on several occasions, including most recently with the Further Consolidated Appropriations Act of 2020. During the time period when mortgage insurance premiums have been deductible, tens of millions of

[1] GSE aggregate data, VA Lender Loan Volume Reports, HUD quarterly reports to Congress on "Financial Status of the Mutual Mortgage Insurance Fund," eMBS, and Urban Institute.

creditworthy, low- and moderate-income individuals benefited from this deduction. However, two key aspects of the current Mortgage Insurance Premium Deduction diminish its effectiveness: (1) its temporary nature; and (2) its relatively low Adjusted Gross Income (AGI) phaseout. Our proposal would modify current law to make the deduction permanent and to eliminate the AGI phaseout. Making the changes USMI proposes would benefit more taxpayers who are trying to buy homes and would eliminate the only itemized deduction that is subject to an AGI phase out.

By way of example of the amount of taxpayers our proposal would impact, we have estimated the number of taxpayers that continue to claim the itemized deduction for mortgage insurance premiums as mortgage "interest," as well as an estimate of the per-return value for this deduction under current-law.

As you know, the 2017 Tax Cuts and Jobs Act (TCJA) doubled the standard deduction. And while the impact of this has reduced the overall number of borrowers who benefit from this deduction, millions of borrowers still rely on and benefit from this important and targeted deduction. As detailed in **Annex C**, a reasonable estimate of the number of tax returns per year that under current law claim the Mortgage Insurance Premium Deduction is 2.4 million returns, a decrease of 43.6 percent as compared to the pre-TCJA figures—but still a sizable number of taxpayers. In contrast, the per-return value of the deduction, $1,499.21 per return, remains well-within historical norms for the provision. Obviously, the number who would benefit from the provision from a permanent extension without the AGI phaseout would be greater.

On behalf of USMI, I thank you for your attention to this important issue. I would like to discuss scheduling a meeting with you regarding the proposal. If you have any questions, please contact me at ljohnson@usmi.org or 202-280-1820.

Very truly yours,

Lindsey D. Johnson
President
U.S. Mortgage Insurers

ANNEX A: Draft Legislative Text

H.R./S. ______

The Mortgage Insurance Premium Deduction Permanency Act of 2021
In the House of Representatives/Senate

Date:

____ introduced the following bill which was read twice and referred to the Committee on ___

A BILL

To amend the Internal Revenue Code of 1986 to make permanent the Mortgage Insurance Premium Deduction.

Be it enacted by the Senate and House of Representatives of the United States in Congress assembled,

SECTION 1. SHORT TITLE

This Act may be cited as "The Mortgage Insurance Premium Deduction Permanency Act of 2021".

SEC. 2. MAKING THE MORTGAGE INSURANCE PREMIUM DEDUCTION PERMANENT AND ELIMINATING THE ADJUSTED GROSS INCOME PHASEOUT.

(a) In General.—

(1) Section 163(h)(3)(E) of the Internal Revenue Code of 1986 is amended –
(A) By striking sections (ii), (iii) and (iv)

(b) EFFECTIVE DATE.—The amendments made by this Act shall apply to taxable years beginning after December 31, 2021.

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ANNEX B: Description of Current Law, Proposed Change, Reason for Change

Current Law Description of Proposal to Make the Mortgage Insurance Premium Deduction Permanent and to Eliminate AGI Phaseout

Premiums paid or accrued for qualified mortgage insurance by a taxpayer during the taxable year in connection with acquisition indebtedness on a principal residence or second home of the taxpayer is treated as if it were deductible qualified residence interest. The deduction is phased out for taxpayers with adjusted gross income over $100,000 ($50,000 if married filing separately).

Proposed Change

The proposal would make the mortgage insurance premium deduction permanent and eliminate the adjusted gross income phase out.

Reason for Change

The mortgage insurance premium deduction properly recognizes that this expense is part of the cost of borrowing money to purchase a home and, therefore, is economically equivalent to interest expense which is deductible. It significantly assists taxpayers in the purchase of a home. Finally, no other itemized deduction is subject to an adjusted gross income phase out.

ANNEX C: Estimate of the number of tax returns per year that claim the Mortgage Premium Insurance Deduction under current law

Extensions of Mortgage Insurance Premium Deduction

In order to understand how this estimate was prepared, it is important to first recap the recent history of the legislation that extended the Mortgage Insurance Premium Deduction. Prior to the enactment of the TCJA, the Mortgage Insurance Premium Deduction was last extended by Consolidated Appropriations Act, 2016 (Pub. L. 114-113), which was enacted December 18, 2015. This bill extended the Mortgage Insurance Deduction for amounts paid or accrued after December 31, 2014 and through December 31, 2016—in other words, for the 2015 and 2016 tax years (for individual taxpayers). At the time of its enactment, the Joint Committee on Taxation (JCT) estimated that the Consolidated Appropriations Act, 2016 would decrease federal revenues by $2.318 billion over two years ($1.314 billion in FY 2016 and $1.004 in FY 2017).

The next extension of the Mortgage Insurance Premium Deduction occurred in February 2018 when it was retroactively extended by the Bipartisan Budget Act of 2018 (Pub. L. 115-123). This extension was effective for amounts paid or accrued after December 31, 2016 and through December 31, 2017 (*i.e.*, the 2017 tax year for individual taxpayers). At the time, the JCT scored the provision as decreasing federal revenues by $1.079 billion over the one-year period.

The second-most recent extension of the Mortgage Insurance Premium Deduction occurred in December 2019, when the Further Consolidated Appropriations Act, 2020 (Pub. L. 116-94) extended the provision. Technically, the extension was for three years (one year retroactive and two years prospective), for amounts paid or accrued after December 31, 2017 and through December 31, 2020. However, by the time of the provision's extension the filing deadline (even the extended filing deadline) for tax year 2018 (*i.e.*, October 15, 2019) had already long passed. The IRS had also not provided any guidance that would allow taxpayers to claim the deduction without filing an amended return—which is a very significant undertaking for most taxpayers.

Thus, while as a technical matter the extension was for three years, for practical purposes it was really only for two years (*i.e.*, tax years 2019 and 2020) because the filing deadlines for these tax years would allow taxpayers to claim the deduction without filing an amended return. The JCT scored the Further Consolidated Appropriations Act, 2020 extension as decreasing federal revenues by $1.253 billion ($828 million in FY 2020 and $426 million in FY 2021).

Finally, the most recent extension of the Mortgage Insurance Premium Deduction was undertaken by the Consolidated Appropriations Act, 2021 (Pub. L. 116-260), which was enacted in December 2020. Passed in the middle of the Covid-19 pandemic, this provision extended the Mortgage Insurance Premium Deduction for one year, for amounts paid or accrued after December 31, 2020 and through December 31, 2021 (*i.e.*, tax year 2021). The JCT scored the provision as reducing federal revenues by $207 million ($31 million for FY 2021 and $176 million for FY 2022).

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IRS Statistics

IRS statistics estimate the number of itemizers claiming the Mortgage Insurance Premium Deduction—at least up through 2017. In 2015, the IRS estimated that 4,112,358 tax returns claimed the deduction, for a total of $6.276 billion in deductions. In 2016, the IRS estimated the figures as a total of 4,407,631 returns claiming the deduction and $6.797 billion in deductions. For 2017, the IRS estimated 2,285,440 returns claimed the deduction for a total of $3.376 billion in deductions.

While the IRS has released statistics for the 2018 tax year, these do not include the Mortgage Insurance Premium Deduction which was, as noted above, expired as of the time that filers were filing for the 2018 tax year. We expect the IRS will release data on the 2019 tax year in the spring.

Estimating the Go-Forward Number of Claimants

Reflecting upon the data, it is possible to estimate the number of taxpayers that will continue to claim the Mortgage Insurance Premium Deduction by extrapolating from both the IRS statistics and also the JCT estimates. Looking at the data described above, certain years seem to be more illustrative or useful than others. In terms of the IRS data, the data for tax years 2015 and 2016 were quite similar, whereas that for tax year 2017 appears to be an outlier. In terms of the JCT estimates, those prepared for the Consolidated Appropriations Act, 2016 and the Bipartisan Budget Act of 2018 are quite similar, whereas those for the Further Consolidated Appropriations Act, 2020 and the Consolidated Appropriations Act, 2021 were dissimilar—both to each other and to the other pair.

Clearly, the most dissonant of all the data points is the JCT score for the Consolidated Appropriations Act, 2021. It is also, however, likely to be the least representative of a "normal" tax year. Not only were many taxpayers struggling to actually pay their mortgages this year (and as cash method taxpayers thereby become eligible for taking the deduction) but also Congress had enacted a number of Covid-19-related stimulus provisions that could reduce an individual's tax and/or taxable income (e.g., advance refundable tax credits in the form of "stimulus checks," payment deadline extensions, etc.). For these reasons, this analysis discards such estimate as not being useful/informative.

In similar fashion, though to a lesser degree, the IRS estimates for tax year 2017 are somewhat discordant. The key issue with the pre-TCJA declines they show is that as of the start of the IRS filing season for tax year 2017 the provision had technically not been extended. While somewhat more of a judgment call than with the JCT score for the Consolidated Appropriations Act, 2021, this analysis likewise discards such data.

The next data point to discard is the JCT estimate for tax year 2018. As a practical matter, the JCT did not explicitly make such an estimate. Rather, they estimated (on a federal fiscal year basis) the three-year cost of extending the provision in December 2019. For the reasons described above, this analysis assumes that the estimate is actually only for two years' worth of tax filings.

Thus, one is left with five tax years' worth of data estimated by the JCT and two tax years' worth of data estimated by the IRS. Per the IRS data, we can infer that in a "normal" pre-TCJA year, somewhere on the order of 4,259,000 tax returns claimed the Mortgage Insurance Premium Deduction. Per the JCT, one can infer that in a "normal" pre-TCJA year, the deductions claimed by the Mortgage Insurance Premium Deduction reduced federal revenues by around $1.132 billion per year. Combining these data points, one can thereby infer that in a "normal" pre-TCJA year the Mortgage Insurance Premium Deduction was claimed by approximately 4.259 million taxpayers at a cost to the federal government of $1.132 billion.

Post-TCJA, the only relevant data point is a JCT estimate that as described above is effectively for two tax years. Based upon this data, one can infer that on an average basis the Mortgage Insurance Premium Deduction costs the federal government $627 million per year. Based upon the pre-TCJA relationship between yearly cost and number of filers, one can thereby extrapolate the number of average number of post-TCJA filers (which is the unknown we are solving for). Before doing this, one must account for other tax-reducing changes made by the TCJA (e.g., marginal rate decreases and increases in the size of the marginal brackets) in order to make the pre- and post-TCJA revenue cost figures actually comparable.

This is obviously challenging to do, given the highly factually-specific nature of individual federal income tax burdens. One rough way of doing so is to take an estimate of how large of a tax cut (percentage-wise) various individual taxpayer cohorts received following the enactment of the TCJA, and then "add back" this cut to the post-TJCA revenue cost. In its most recent analysis of the cost of extending the TCJA, the Tax Policy center estimates that on average TCJA-related changes increased the after-tax income of taxpayers by a modest 1.5 percent.[2] Though not technically a one-to-one correlation, it is possible to infer that this after-tax income increase is exactly equal to the decrease in taxes paid, on average. Using this 1.5 percent as our adjustment factor, the adjusted post-TCJA "cost" of the Mortgage Insurance Premium Deduction is $636 million (*i.e.*, ($627 million x 1.5 percent) + $627 million).

Assuming that the relationship between the number of itemizers that continue to claim the Mortgage Insurance Premium Deduction and the revenue cost is the same both pre- and post-TCJA, it is thereby possible to estimate the number of itemizers that continue to claim the deduction. Algebraically, the equation that solves for this value α is:

$$4{,}259{,}000 / \$1{,}132{,}000{,}000 = \alpha / \$636{,}000{,}000$$

This reduces to:

$$\alpha = \$636{,}000{,}000 \times (4{,}259{,}000 / \$1{,}132{,}000{,}000)$$
$$\alpha = \$636{,}000{,}000 \times 0.003762$$
$$\alpha = 2{,}392{,}632$$

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[2] Robert McClelland and Mark Mazur, *Permanently Extending the Tax Cuts and Jobs Act, President Trump Would Cut Taxes by $1.1 Trillion through 2030*, TAX POLICY CENTER: TAXVOX BLOG (Oct. 27, 2020), https://www.taxpolicycenter.org/taxvox/permanently-extending-tax-cuts-and-jobs-act-president-trump-would-cut-taxes-11-trillion.

Thus, assuming everything described above, one can infer that going forward post-TCJA approximately 2.4 million tax returns will claim the Mortgage Insurance Premium Deduction in any given year.

Average Deduction

Another analysis that can be done with this data is to determine an average amount of deduction taken per return. Pre-TCJA, this process is fairly clear because both the number of tax returns that claimed the deduction and also the amount of the deductions taken are known values. Post-TCJA, however, the value of deductions taken in any year is an unknown variable. Rather, the post-TCJA data point that comes closest to this figure is the JCT estimated revenue cost for the provision, which as described above should be around an average of $636,000,000 per year.

It is possible to establish a comparative relationship between the JCT estimate and the IRS deduction estimate for years before the enactment of the TCJA. For tax years 2015 and 2016, the JCT estimated that the revenue cost of the provision per year would on average be $1.16 billion. On average, IRS statistics show that for these tax years an average of $6.5 billion in Mortgage Insurance Premium Deductions were taken per year. Thus, the ratio of deductions taken to revenue cost is $6.5 billion / $1.16 billion, or 5.64. Multiplying the estimated JCT per year revenue cost, $636,000,000, by this amount yields $3.587 billion in estimated average yearly deductions, post-TJCA.

It is important to note that a key assumption above is fairly speculative (and likely to be imprecise at best), namely, the correlation between revenue cost and amount of deductions post-TCJA. It was assumed above that this relationship is identical to that which existed pre-TCJA. However, this is highly likely to be inaccurate given that estimated revenue loss with respect to a Code provision is related to the provisions of the Code that raise or lower revenue—an obvious one being, for example, the marginal tax rate that a deduction is taken against. This value shifted quite significantly post-TCJA (*i.e.*, it was lowered across all income brackets).

Focusing solely on this aspect, one would expect in the abstract that reducing the marginal tax rate that a deduction (e.g., the Mortgage Insurance Premium Deduction) is taken against would by itself lower the revenue cost of the deduction (as compared to a year before the rate reduction occurred). Thereby, comparing two different revenue costs (as the ratio above does) from years before and after such a change would be somewhat disjointed and lead to inaccuracies unless some adjustment factor were applied to make the pre- and post-change revenue costs comparable. Unfortunately, there doesn't appear to be a way of doing this with respect to the revenue estimates for the Mortgage Insurance Premium Deduction (whether solely with respect to the rate reduction or with respect to other relevant TCJA-related changes).[3] Thus, the estimate of the value of post-TCJA yearly deductions should be understood as being a somewhat "rough" one.

[3] Note: this adjustment is fundamentally different than the adjustment taken in calculating the potential number of post-TCJA filers. There, an adjustment was made to attempt to account for the TCJA-related tax cuts in order to "upward adjust" the revenue estimate value in order to compare it to the pre-TCJA estimate. Here, a "backward adjust" is required to compare the "tax value" of a deduction pre- and post-change.

With these assumptions in mind, and taking the data above, the following is a chart that details an estimated average Mortgage Insurance Premium Deduction per taxpayer, both pre- and post-TCJA.

Tax Year	**No. of Returns Claiming Deduction**	**Amount of Deductions Taken**	**Avg. Deduction (per return)**
2012	4,114,661	$5,366,230,000	$1,402.61
2013	4,690,700	$6,507,412,000	$1387.30
2014	4,243,396	$5,366,230,000	$1,304.17
2015	4,112,358	$6,276,076,000	$1,526.15
2016	4,407,631	$6,797,500,000	$1,542.21
Post-TCJA (est)	2,392,632	$3,587,055,364	$1,499.21

As this chart shows, the Mortgage Insurance Premium Deduction was pre-TCJA likely a fairly significant deduction as measured by a dollar value. The chart also shows this to likely be the case post-TCJA.