NATIONAL ASSOCIATION of REALTORS®

REALTOR®

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July 22, 2011

The Honorable Dave Camp
Chairman
Committee on Ways and Means
U.S. House of Representatives
341 Cannon House Office Building
Washington, DC 20515

The Honorable Sander Levin
Ranking Member
Committee on Ways and Means
U.S. House of Representatives
1236 Longworth House Office Building
Washington, DC 20515

Dear Chairman Camp and Ranking Member Levin:

The National Association of REALTORS® (NAR), representing more than one million real estate sales agents, brokers, leasing agents, property managers, and appraisers, has carefully analyzed the FAIR Tax (H.R. 25). In anticipation of the Ways and Means Committee's consumption taxes hearing on July 26, we wish to express several concerns about the FAIR Tax that we hope can be explored during the hearing. We will submit a separate statement for the record.

Reduced to its simplest terms, the FAIR Tax would impose a 30% tax on the purchase of all goods and services. No exceptions are provided for food, housing, education or medical expenses. NAR has grave reservations about the implications of the tax as it would affect housing. Many of these concerns were explored in 2000, when the full Committee held hearings on the FAIR Tax. Mr. Leo Linbeck, founder of the FAIR Tax movement and a representative from NAR discussed the impact on housing in some depth at that hearing. Our concerns have not changed.

The FAIR Tax would impose a tax of 30% on the purchase of newly-constructed houses, but would not apply to existing homes. Housing would become less affordable. In addition, mortgage and rental payments would be subject to the tax.

Penalty on new homes, but a premium on existing homes: The tax penalty on new homes would drive the price of a home skyward, but there would be a premium on existing homes because purchasers would wish to avoid the tax. In either event, the cost of housing would increase. Alternatively, the marketplace could impose downward pressure on the value of housing because the increased tax cost makes housing less affordable. Further reductions in home prices would result in more homeowners being "underwater" on their mortgages, putting additional burdens on already stressed real estate markets.

Availability of mortgage financing: Very few people would be able to pay the tax out of pocket at the time of purchase. For example, the tax on a median-price home (currently about $170,000) would be $51,000. Given current constraints on lending, it is not clear how or whether a lender would finance that tax cost.

Downpayments: Depending on the resolution of pending banking regulations, borrowers may be required to provide downpayments as high as 20% of the cost of a home. Thus, purchasers would face the all-but-impossible prospect of providing up to 50% of the cost of the home at the time of purchase. This barrier would be all but insurmountable, particularly for first-time homebuyers.

Payments for housing: The FAIR Tax is imposed on the purchase of both goods and services. Thus, in the case of apartments, the tenant is purchasing the service of using another's property. Therefore, rents would be subject to tax. In the case of a mortgage, borrowers are purchasing the service of using someone else's money. Thus, interest payments would also be subject to the tax. In the early years of a mortgage, when the ratio of interest payments to debt amortization is very high, the burden of the tax would be particularly high. In both cases, the cost of both rental and owner-occupied housing would increase.

Selling a home: All of the services incident to selling a home would be subject to the FAIR Tax. Adding a 30% tax cost to items such as appraisals, recording fees, termite and other inspections and fix-up costs would place a heavy burden on both buyers and sellers.

Food, medicine, shelter: Many state sales tax regimes do not tax these essentials. Eliminating any of them from the FAIR Tax would drive up the rate to an even more exorbitant level.

These are just a few of our observations and concerns. NAR has taken no formal position on HR 25. Our guiding policy is that the purchase and sale of a home should not be subject to a federal-level tax.

We look forward to your exploration of this proposal. We are happy to discuss any of these questions or others you and your staff might have.

Sincerely,

Ron Phipps, ABR, CRS, GRI, GREEN, e-PRO, SFR
2011 President, National Association of REALTORS®

cc: Members, House Committee on Ways and Means