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December 12, 2017

The Honorable Kevin Brady
Chairman
House Committee on Ways and Means
United States House of Representatives
1011 Longworth House Office Building
Washington, DC 20515

The Honorable Orrin G. Hatch
Chairman
Senate Committee on Finance
United States Senate
104 Hart Office Building
Washington, DC 20510

Dear Chairmen Brady and Hatch, and House and Senate Conferees:

On behalf of the 1.3 million members of the National Association of REALTORS®, and the tens of millions of current and prospective homeowners whom we serve, I am writing to urge the members of the House-Senate conference committee for "The Tax Cuts and Jobs Act" to keep in mind the importance of homeownership to our economy and our society as you work out the differences between the House and Senate bills.

Specifically, there are three provisions where the decisions of the conference can create a tremendously better outcome, not only for current and prospective homeowners, but for communities and the economy.

First, please retain current law on the capital gains exclusion for the sale of a principal residence. When the current exclusion was enacted in 1997, it replaced one of the most burdensome recordkeeping regimes that ever bedeviled an individual tax filer with one that is simple, straightforward, and that greatly encourages the buildup of household wealth. It also encourages work force mobility, which feeds economic growth.

Increasing the required amount of time a homeowner must live in the home from two of the past five years to five of the past eight will create hardship to millions and unfairly penalize them by changing the rules in the middle of the game. Experienced REALTORS® know that in the great majority of cases, people sell their homes because of legitimate and pressing needs, such as a job move or changes in family size. Further, the income limits in the House bill would punish many in higher-cost areas of the Nation simply because they happen to live where incomes, and the cost of living, are above the average.

Moreover, both of these changes are likely to be counterproductive to the economic growth this tax bill seeks to generate. If the modifications to the principal residence exclusion are enacted, some significant portion of those affected are likely to keep their homes off the market, even if they are otherwise ready to sell. This would exacerbate the low-inventory problem currently affecting many real estate markets. Our research shows that as many as 22 percent of recent owner-occupied home sellers owned their residence between two to five years. If just one in five of these affected homeowners choose to forgo a trade-up purchase of another home, GDP could decline by more than $7 billion per year.

Second, we urge the conferees to choose the Senate provision concerning mortgage interest deductibility, which continues the current law's $1 million limit. Lowering the cap to $500,000, as the House bill does, would have an immediate and very negative impact on many high cost markets. Home buyers in these areas often have little choice but to take out a very large mortgage, simply because finding a residence priced below the limit that meets their needs is practically impossible.

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Even worse, the lower limit in the House bill is not indexed for future inflation. This guarantees the provision will pinch more and harder over time. We estimate that in just 20 years, a full third of the housing stock of the United States will be valued over $500,000. Responsible tax reform should not unfairly punish more and more taxpayers simply because of inflation.

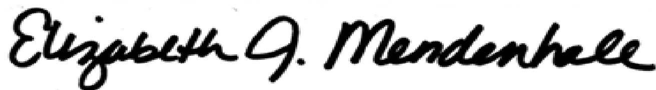
Third, as you consider ways to make the limits on the deductibility of state and local taxes (SALT) less unsavory, we entreat you to also include income or sales taxes in the mix. If property taxes are the only deductible levies, we fear that state and local governments will shift more of the tax burden onto owners of real property. Moreover, including income or sales taxes under the limit would provide greater relief for those hit hard by the change.

Finally, we would also like to briefly bring to your attention two other provisions that greatly affect real estate and many of the professionals who deal with it.

The Senate bill includes provisions to adjust the depreciable lives of real property to more accurately reflect economic reality. This change, which we hope you will accept, would lower barriers to investment in real estate and thus generate more economic growth.

For pass-through entities, the Senate version of tax reform also better matches the tax rate reduction that corporations receive under the bill. This means REALTORS®, brokers, and developers will not face the glaring and potentially jarring incentive to convert to corporate status that is presented by the House bill. We thus ask that you opt for the much simpler Senate pass-through income provision.

Sincerely,



Elizabeth Mendenhall
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