November 15, 2017

The Honorable Orrin Hatch
Chairman
Senate Committee on Finance
United States Senate
Washington, D.C. 20510

The Honorable Ron Wyden
Ranking Member
Senate Committee on Finance
United States Senate
Washington, D.C. 20510

Dear Chairman Hatch and Ranking Member Wyden:

We understand you are considering extending the length of time a taxpayer must own and use a residence in order for them to qualify for an exclusion of gain realized on the sale of a principal residence in tax reform legislation to five of the last eight years. If enacted this provision will act as a disincentive for many homeowners to move up or move down as life events occur – expanding family, medical issues, job changes, and other life contingencies. While we appreciate that the bill contains provisions intended to address at least some of these issues, we believe it's important for Washington to take into account the wide range of events that factor into families' financial decision making.

Under current law, the taxpayer must have owned and used the residence as a principal residence for at least two of the five years ending on the date of the sale or exchange to be eligible for the exclusion. The exclusion under this provision may not be claimed for more than one sale or exchange during any two-year period. The proposal would increase the requirement to five of the last eight years and would allow for the exclusion to only be used once in a five year period. While the proposal in the Senate bill would raise a small amount of revenue, it could significantly alter other financial decision-making by families that would have far greater economic impacts.

Homeownership is one of the most accessible means for the working and middle class families to build wealth in our society. That accumulated wealth allows families to sustain homeownership through various stages of career and family events, and ultimately into retirement. This provision undermines the important role that accumulated wealth in one's primary residence plays in the entire household balance sheet and financial decision-making – taking a new job, having a child, moving to help an elderly family member, retiring, etc.

These changes are likely to unnecessarily damage the undercurrents of economic growth: taxpayers will experience less economic and geographic mobility than they enjoy today. The rule change will discourage mobility at a time when we need to be encouraging mobility to better match skills with jobs. Those who are employed in jobs that are subject to relocation will be less likely to purchase a home. For example, the rule change will be hard on members of the military who are frequently asked to move every two-three years. Under this provision, many will likely choose to delay homeownership.

Among all proposed tax changes that will negatively impact housing and individual homeowners, the one that will affect the broadest segment of taxpayers, regardless income level, is treatment of their gain on sale. Gain on sale is the individual equivalent to deferring capital gains for reinvestment. If these homeowners were investors, their capital gains could be deferred through tools we use to encourage growth, but under this proposal their tax liability is due in full, unless they go through a complex process to prove why they sold their home. That's not simplification and it is not fair.

The current proposal does not strengthen incentives that ease financial burdens associated with growing families, and the changes will be especially hard on millennials -- the largest demographic group since the baby boom – just as they are forming new households and choosing homeownership. Even under the current rule, young homebuyers are still fully utilizing every financial resource available to them, including every dollar that comes from job promotions; bonuses at work; selling of valuable personal property like automobiles and, most importantly, 100% of the profit from the sale of their first home to make the home upgrade a possibility at the 2 year mark. Subtracting 20% of the profit from the sale of a first home makes both the prospect and reality of moving up inside of 5 years financially impossible. By locking younger households into their first homes longer, this tax law change will exacerbate the already tight supply of single family homes, driving prices out of reach for those entering the market.

As structured, the principal effect of extending the gain from sale of a principal residence rule, combined with proposed changes to interest and state and local property tax deductibility, will severely disrupt the U.S. residential real estate industry and the well-being of local communities. Like you, we support economic growth through homeownership and do not want to prevent homeowners from moving between otherwise prudent housing choices and properties driven by both expected and unexpected life events. We would strongly urge retention of the current law on this issue.

Sincerely,

American Escrow Association
American Land Title Association
Community Home Lenders Association
Consumer Mortgage Coalition
Habitat for Humanity International
Independent Community Bankers of America
Leading Builders of America
Mortgage Bankers Association
National Association of Home Builders
National Association of Mortgage Brokers
National Association of Realtors
RESPRO
The Realty Alliance

cc:
The Honorable Paul D. Ryan
The Honorable Kevin Brady
The Honorable Mitch McConnell
The Honorable Stephen Mnuchin
The Honorable Nancy Pelosi
The Honorable Richard Neal
The Honorable Charles Schumer
The Honorable Gary Cohn