NATIONAL ASSOCIATION OF REALTORS®

September 27, 2022

The Honorable Jimmy Panetta
U.S. House of Representatives
406 Cannon House Office Building
Washington, DC 20515

The Honorable Mike Kelly
U.S. House of Representatives
1707 Longworth House Office Building
Washington, DC 20515

Dear Representatives Panetta and Kelly:

On behalf of the more than 1.5 million members of the National Association of REALTORS®, I express my deep appreciation to you for introducing the "More Homes on the Market Act," a bill that would increase the maximum amount of capital gain that a homeowner can exclude on the sale of a principal residence. Enactment of this legislation would solve a serious and growing problem that is rapidly spreading throughout our Nation.

For many years prior to the passage of the Taxpayer Relief Act of 1997, gain from the sale of a homeowner's primary residence was not taxed so long as the seller purchased a replacement home for an amount at least equal to the selling price of the former home. For sellers over the age of 55, a maximum amount of $125,000 could go untaxed even if the former home were not replaced. The effect of these rules was that for the vast majority of home sales, there was no federal capital gains tax due. This served to promote homeownership and made it easier for families to move because of job changes, thus increasing the vitality of our economy.

As beneficial as these previous tax rules were, they came with a difficult downside. They placed a huge and onerous burden on homeowners, who effectively were required to keep records for not only the original purchase price of their home, but also to track the paperwork and amount paid for every large and small improvement to the home over their years of ownership. This was needed to document their investment in the home so they could determine the amount they would have to invest in the replacement home, or to compute the amount of capital gains tax due in the event they could not exclude the gain, as when they were under age 55 and did not reinvest in as costly a new home as was the former one. In short, this created a recordkeeping nightmare for millions of American families.

This is why the 1997 Act's capital gains exclusion amounts of $250,000 for single filers and $500,000 for married couples filing a joint tax return were greeted with such enthusiasm by millions of current and prospective homeowners, tax preparers, REALTORS®, and others throughout the land. It was one of the most taxpayer-friendly and commonsense changes to the tax law since the advent of our modern Internal Revenue Code. And, at these high levels of exclusion, only a tiny fraction of home sales in 1997 would result in capital gains tax being owed on a sale.

As wonderful as these changes were, however, they had a major flaw, which really would not become well known for many years. The flaw was that the maximum exclusion amounts included in the 1997 Act were not indexed for future inflation. For the first few years, this was barely noticeable for most, but the insidious nature of inflation eventually began to take its toll, and over time, the $250,000/$500,000 limits wore away in real terms to where they are today worth just a fraction of their original values.

Within a decade or so after 1997, the rising prices in the highest-home-cost areas of America started to cause the gains on sale for many to routinely exceed the threshold amounts, meaning owners were left with tax due, which was never intended. More recently, a growing number of regions have seen the problem becoming more widespread. And with the record jumps in home values across the country over the past couple of years, the issue is approaching crisis stage in many areas. This is especially true for older homeowners who have seen decades of inflationary growth in the nominal value of their residences.

For example, NAR estimates that in California, as many as 95 percent of single homeowners and 68 percent of married ones who purchased their homes before 2000 could face capital gains tax if they sold their home this year. Nationwide, the numbers are 52 percent and 25 percent respectively. Each year, inflation will continue to take its untiring toll, adding thousands more homeowners to these columns of vulnerability.

Unfortunately, this issue has exacerbated the current acute shortage of available houses in America. Not only are new homes being constructed in inadequate numbers, but more and more current homeowners, and especially elderly ones who have lived in their homes for a long time, are not selling them, even when they no longer suit their needs due to health or age concerns. The reason is that they refuse or cannot afford to pay the exorbitant capital gains tax that could be due if they did sell. The result is that there are fewer homes available for younger or newer homeowners to move into, thus driving up demand and prices even more. Therefore, your bill is aptly named the "More Homes on the Market Act," as this will be the result if it is enacted.

Your legislation would not only double the current maximum exclusion amounts, placing them close to their real original values, but would index them for future inflation, thus ensuring the current ugly situation never occurs again.

Again, I thank you for your leadership on this important issue and your foresight in tackling it now. As the months go by and inflation continues to eat away at the current-law exclusion limits, more and more homeowners in every area of the Nation will come to the unwelcome realization that this is adding to our housing crisis. NAR agrees with you that we should take care of this problem now before it grows even worse.

Sincerely,

Leslie Rouda Smith

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2022 President, National Association of REALTORS®