

Commercial Issues and Actions – Top Priorities

January 2016

► **ISSUE: *1031 Like Kind Exchanges*:** Tax reform proposals released in the 113th Congress repealed Section 1031, and the President's budget for Fiscal Year 2015 proposes limits on the deferral provisions of it. Although none of these proposals progressed, if tax reform plans are introduced in the 114th Congress it is likely that they will borrow heavily from the previous ones, so Section 1031 is still at risk. Thus far, no tax reform plans have been introduced in 2015.

NAR Action: NAR participates in multiple coalitions to protect Section 1031 from repeal or limitation. As part of these coalitions, NAR has commissioned multiple studies on the negative economic effect of repealing Section 1031, on real estate and the entire economy. NAR participated in multiple media events to unveil these studies, including press briefings, meetings with the Treasury, and meetings with key Congressional Committees and offices. In 2015 NAR surveyed its membership to gauge how REALTORS® use Section 1031, and how their businesses will be affected if it is repealed. NAR continues to monitor this, and will oppose any plans to repeal or limit its use.

► **ISSUE: *Lease Accounting*:** The Financial Accounting Standards Board (FASB) and International Accounting Standards Board (IASB) have been working since 2005 to develop a standardized approach to lease accounting. The initial proposal included new accounting rules that would force many companies to capitalize commercial leases onto their balance sheets using a “right-of-use” accounting model. Efforts to fully converge the two standards have stalled. The latest reports from FASB indicate it will replace the current dual model approach with a new one: though leases currently categorized as “operating leases” will be brought onto balance sheets under it, “Type A” leases are treated as capital leases and “Type B” leases continue to be recorded as straight-line rent expenses. Most real estate leases will fall into the “Type B” category. The updated standards are expected to be released in late 2015, to be effective in 2017 or 2018.

NAR Action: Throughout the standards convergence project, NAR has been active on its own and in coalitions to express concern the new lease accounting proposal would be detrimental to the economy by reducing the overall borrowing capacity of many commercial real estate lessees and lessors. NAR will continue to monitor the FASB and IASB negotiations as they approach finalization of their standards, and will provide education to its members about the new standard and the impact it may have on commercial real estate.

► **ISSUE: *Marketplace Fairness*:** In March 2015 Senators Enzi (R-WY) and Durbin (D-IL) introduced S. 698, the “Marketplace Fairness Act of 2015,” which would create authority for state governments to collect sales taxes on Internet sales for goods delivered to their states, which would level the playing field between brick-and-mortar and e-commerce retail businesses while assisting the states in collecting billions of uncollected state sales taxes; in June, Rep. Chaffetz (R-UT) and Womack (R-AR) introduced the House version, H.R. 2775, the “Remote Transactions Parity Act.”

NAR Action: NAR joined a coalition letter in support of H.R. 2775 and sent a letter thanking its sponsors for introducing it. NAR participates in the Marketplace Fairness Coalition, and will continue to support S.698 and H.R. 2775, and urge Congress to pass this legislation.

► **ISSUE: *Marketplace Lending*:** The Department of Treasury put out a Request for Information (RFI) in July 2015 about marketplace lending. Marketplace lending describes practices such as online banks, peer-to-peer lending, and crowdfunding that are alternative lenders to small businesses and others. The Request focused mainly on the lenders' business practices, especially dealing with evaluating borrower creditworthiness. It is not known what the Department will do with the information gathered through the RFI process but given the exponential increase in this type of lending it makes sense that the Department would want to learn more about what those lenders are doing.

NAR Action: NAR submitted a letter highlighting the growing role that these lenders play in real estate, and the need for balancing innovation and regulation. The letter also referenced NAR's commitment to innovation and data privacy.