

Commercial Issues and Actions – Top Priorities

August 2015

► **ISSUE: *1031 Like Kind Exchanges*:** Tax reform proposals released in the 113th Congress repealed Section 1031, and the President’s budget for Fiscal Year 2015 proposes limits on the deferral provisions of it.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NAR surveyed its membership to gauge how REALTORS® use Section 1031, and how their businesses will be affected if it is repealed.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: *Basel III*:** As part of the implementation of the Basel III Banking Standards, a new classification of commercial real estate loan treatment was introduced in January 2015. This standard, High Volatility Commercial Real Estate (HVCRE) Exposures, changes the way construction loans are evaluated and structured. Most significantly, HVCRE loans are now assigned a risk weight of 150 percent. The supervisory agencies responded to calls for clarification from the banking community as the standard contains many new concepts.

NAR Action: NAR is participating in a coalition of real estate and banking industry groups to work with regulators to get more information about the mechanics of the new lending standards. NAR continues to work with industry partners and regulators to get clarity on the new standards and understand the impact of the new standards.

► **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.