February 10, 2015

Dear Senator:

Tomorrow, the Senate Finance Committee will consider an original bill offered by Senator Robert Menendez and Senator Michael Enzi to reform the outdated and discriminatory Foreign Investment in Real Property Tax Act of 1980 (FIRPTA). We urge you to vote for the legislation, which will spur domestic job creation, reduce the burden imposed by the punitive FIRPTA tax, and create bipartisan momentum for broader international tax reforms to incentivize foreign investment in the United States.

The United States is among the world's favorite places to invest. Yet today's outdated tax laws actively discourage investment from overseas in places where it could have a tremendous economic impact – notably infrastructure and the commercial real estate industry, which alone represents 13 percent of U.S. GDP by revenue and generates or supports over 9 million American jobs.

FIRPTA is a major impediment to investing in the United States. The punitive FIRPTA regime subjects foreign equity investment in U.S. real estate or infrastructure to a much higher tax burden than applies to a foreign investor purchasing a U.S. stock or bond, or an investment in any other asset class. In a global economy increasingly subject to cross-border capital flows, the FIRPTA regime is an outlier. It creates an artificial and anti-competitive tax barrier to inbound real estate equity investment that would otherwise be used to upgrade and improve commercial properties, expand state and local tax bases, and create jobs in the real estate and construction industries.

FIRPTA collects little in the way of actual revenue. On the contrary, it deters and deflects capital to other markets. Fortunately, boosting inbound investment is a goal shared by virtually all, and FIRPTA reform is an issue that transcends the partisan divide, as evidenced by its strong support in both the business and labor community.

The legislation offered by Senator Menendez and Senator Enzi would increase the ownership stake that a foreign investor can take in a U.S. publicly traded REIT without triggering FIRPTA liability and extend the provision to certain collective investment vehicles. Specifically, it increases the FIRPTA exemption for "portfolio investors" in a U.S. publicly traded REIT from 5 percent to 10 percent for purposes of capital gains dividends and sales of REIT shares. The estimated revenue effects of the legislation are largely offset by a number of noncontroversial provisions aimed at improving FIRPTA and REIT tax compliance and enforcement, such as measures requiring corporations to notify shareholders that they are subject to FIRPTA and increasing the withholding rate on FIRPTA transactions.

The legislation is based on a more expansive measure introduced in the last Congress by Senators Robert Menendez and Michael Enzi. The *Real Estate Investment and Jobs Act* was cosponsored by 21 of the 24 Members of the Senate Finance Committee.

We hope you will take an important step to boost job growth and promote inbound investment by voting for the legislation this week.

Sincerely,

Alternative & Direct Investment Securities Association
American Hotel & Lodging Association
American Resort Development Association
Building Owners and Managers Association International
CCIM Institute
Institute of Real Estate Management
International Council of Shopping Centers
International Union of Painters and Allied Trades
Investment Program Association
NAIOP, Commercial Real Estate Development Association
National Apartment Association
National Association of REALTORS®
National Association of Real Estate Investment Trusts
National Multifamily Housing Council
SOCIETY OF INDUSTRIAL AND OFFICE REALTORS®
The Real Estate Roundtable

CC: The Honorable Orrin G. Hatch
Chairman, U.S. Senate Committee on Finance

The Honorable Ron Wyden
Ranking Member, U.S. Senate Committee on Finance

The Honorable Robert Menendez
United States Senate

The Honorable Michael B. Enzi
United States Senate