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February 10, 2015

The Honorable Orrin G. Hatch
Chairman
Committee on Finance
U.S. Senate
219 Dirksen Senate Office Building
Washington, D.C. 20510

The Honorable Ron Wyden
Ranking Member
Committee on Finance
U.S. Senate
219 Dirksen Senate Office Building
Washington, D.C. 20510

Dear Chairman Hatch and Ranking Member Wyden:

The National Association of Real Estate Investment Trusts® (NAREIT) urges you to support and vote for the reform provisions to the Foreign Investment in Real Property Tax Act of 1980 (FIRPTA) introduced by Senators Menendez and Enzi that are included in the Chairman's Mark that the Senate Finance Committee will consider tomorrow. NAREIT is the worldwide representative voice for real estate investment trusts (REITs) and publicly traded real estate companies with an interest in U.S. real estate and capital markets.

These FIRPTA reform provisions would be modest and sensible improvements to current tax law that would help to encourage publicly traded U.S. REITs to access additional equity capital, enabling them to better invest in U.S. real estate while providing investors with the benefits of the transparency and liquidity available in the public capital markets.

While current law requires foreign investors to pay capital gains tax on the sale of their U.S. assets only in their country of residence, FIRPTA imposes an additional level of tax on minority investments in shares of publicly traded companies, like REITs, that primarily own and manage real estate. This additional level of tax discourages equity investment in U.S. real estate companies.

By making targeted changes to FIRPTA consistent with existing U.S. tax policy on debt instruments held by foreign investors, the FIRPTA provisions in the Chairman's Mark would enable new investments in publicly traded REITs. Specifically, the proposals would increase the ownership stake a foreign investor may have in a publicly traded REIT without being subjected to FIRPTA from 5% to 10%. Notably, REIT dividends (historically constituting the majority of total return) paid to non-U.S. shareholders would remain subject to U.S. withholding (but not FIRPTA) tax.



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Like the [Real Estate Investment and Jobs Act](#) introduced last Congress by Senators Menendez and Enzi and co-sponsored by 21 out of 24 members of the Senate Finance Committee, the FIRPTA reform provisions in the Chairman's Mark would encourage the flow of additional capital into the United States commercial real estate market, permitting REITs to reduce leverage and increase liquidity, while at the same time potentially benefiting millions of U.S. shareholders of U.S. REITs.

Again, NAREIT expresses its appreciation and support for the FIRPTA reform provisions included in the Chairman's Mark and encourages you to co-sponsor and vote for this proposed legislation.

Respectfully submitted,



Steven A. Wechsler
President & Chief Executive Officer

Cc: Members of the Senate Finance Committee

