The Real Estate Roundtable

December 5, 2025

The Honorable Scott Bessent
Secretary
U.S. Department of the Treasury
1500 Pennsylvania Ave., NW
Washington, DC 20220

Re: Repeal of FIRPTA Look-Through Rule (REG-109742-25)

Dear Secretary Bessent:

The Real Estate Roundtable commends the Treasury Department and IRS for its recently released proposed regulations withdrawing a 2024 look-through rule that has reversed long-standing tax law and significantly discouraged foreign investment in U.S. real estate. We strongly encourage you to finalize REG-1097420-25 as quickly as possible, thereby providing greater certainty to taxpayers and broader access to capital for job-creating real estate activities in the United States.

In an act of broad regulatory overreach, final 2024 tax regulations issued under the Foreign Investment in Real Property Tax Act (FIRPTA) invented a new look-through rule to determine whether an entity qualifies as domestically controlled for FIRPTA purposes. As described in our prior submissions, the look-through rule reversed decades of well-settled tax law, severely misconstrued the statute, and contradicted Congressional intent. The statutory interpretation advanced by the prior Administration—that the words "directly or indirectly" require the upward attribution of stock through a taxable C corporation—is, in its entirety, directly at odds with the language of Section 897(h), the Congressional intent behind Section 897(h) as reflected in its legislative history, basic rules of statutory interpretation, Treasury's prior FIRPTA regulations, and prior IRS rulings and case law on the constructive ownership of stock.

Moreover, the 2024 regulations have deterred capital formation and investment in real estate and infrastructure projects in the United States. When invested in U.S. real estate, foreign capital puts contractors, tradesmen, and others to work constructing, upgrading, and improving properties. Pooled with U.S. partners and their expertise, foreign investment helps create productive assets, such as shopping centers and apartment buildings, which revitalize communities and increase the supply of affordable housing. Foreign investment is a critical source of financing and institutional capital for new multifamily housing that brings down costs for working families. Since 2020, foreign sources have invested over $42 billion in U.S. multifamily housing.[1] More recently, however, the look-through rule has impaired access to capital at a critical time of high housing costs when we have significant need for new housing construction and investment across the country.

[1] CBRE, *Foreign Investment Briefing* (Feb. 2025).

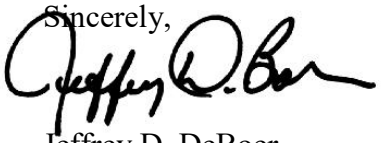
The look-through rule changed longstanding tax law and effectively imposed new taxes on investment structures that have been used for decades by foreign governments, insurance companies, and other institutional or large foreign investors when deploying capital in the United States. Large, long-term investments can take years to properly organize and finance. Surprising investors with sudden, retroactive changes to well-settled tax rules creates a bad precedent that discourages business and investment in the United States. The end-result of the look-through rule is less housing, fewer jobs for skilled tradesman and contractors, and less local tax revenue to finance critical public services like schools and law enforcement.

The preamble in the Notice of Proposed Rulemaking (NPRM) issued by your Department on October 1, 2025 succinctly captures and summarizes the flaws in the 2024 regulations. We agree with its rationale and conclusion that the 2024 regulation's look-through treatment "is not the construction that should be given to the text of section 897(h)(4)(B), as informed by the traditional tools of statutory construction, including evaluation of the provision's purpose." The NPRM's proposal to remove the look-through rule and treat all domestic C corporations as non-look-through persons in determining whether a REIT is domestically controlled would restore prior law, remove an unnecessary regulatory hurdle that serves no clear purpose, and uphold broadly accepted tax principles. Treasury's NPRM is the correct reading of the FIRPTA exception for domestically controlled REITs and should be finalized.

In addition, the NPRM's clarification that taxpayers may rely on the proposed regulations for transactions occurring before the date the proposed regulations are final is particularly helpful while taxpayers await finalization of the rules. Quick action to finalize the proposed regulations, however, will further unlock capital for private sector entrepreneurs and spur new and productive real estate investments in communities across the country.

Thank you in advance for your consideration of these comments. We appreciate your attention to these issues, and please do not hesitate to have your staff contact me with questions or requests for additional information.

Sincerely,



Jeffrey D. DeBoer
President and Chief Executive Officer

cc: The Honorable Jason Smith
Chairman, House Committee on Ways and Means

The Honorable Richard E. Neal
Ranking Member, House Committee on Ways and Means

The Honorable Michael D. Crapo
Chairman, Senate Committee on Finance

The Honorable Ron Wyden
Ranking Member, Senate Committee on Finance