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The Real Estate Roundtable

March 20, 2020

The Honorable Steven T. Mnuchin
Secretary
United States Department of Treasury
1500 Pennsylvania Avenue, NW
Washington, DC 20220

The Honorable Charles P. Rettig
Commissioner
Internal Revenue Service
1111 Constitution Avenue, NW
Washington, DC 20224

Dear Secretary Mnuchin and Commissioner Rettig:

The COVID-19 outbreak is an unprecedented event in U.S. history that demands bold action and clarity in the federal government's response. The Real Estate Roundtable applauds the administrative actions taken this week to permit the deferral of income tax payments by American businesses and workers. Building on this effort, we urge Treasury to act quickly and use its broad authority to provide additional emergency relief that will help avoid permanent business closures, layoffs, and consumer bankruptcies.

Specifically, we urge the Administration to grant temporary, emergency relief under section 7508A with regard to the treatment of cancellation of debt (COD) income. Following the President's determination that COVID-19 constitutes a national emergency, section 7508A in combination with section 7508(a)(1)(K) permits a delay of up to one year with respect to a taxpayer's compliance with any "act required or permitted under the internal revenue laws specified by the Secretary." Using that authority, the Treasury should provide a one-year delay for the recognition of any tax consequences to the borrower of any COD income accruing between March 1 and August 31, 2020.

This will give time for the Congress and Administration to consider legislation or regulations that would provide tax rules for COD income that would apply after the one-year delay and that would reflect the current emergency situation, tax policy considerations, and general economic conditions. For example, such rules could ease or limit COD income, make attribute reduction more available as an alternative, eliminate the risk of "whipsaw" between the character of related items, and other matters.

In many parts of the country, the cessation of economic activity caused by the COVID-19 outbreak is government-mandated. Elsewhere, the economic inactivity is encouraged by the government. These extraordinary events can and should result in widespread debt forgiveness, cancellation, and restructuring events between private parties that would never occur in ordinary times. In this environment, government policy should promote the forgiveness of debt and restructuring of commercial relationships, not penalize them. Removing tax obstacles to the forgiveness and cancellation of debts will free up resources that businesses can use to avoid force reductions and layoffs.

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In the case of families and individuals, waiving any recognition of income from the cancellation of debt during this period of extreme hardship will allow borrowers to modify their obligations, including credit card debt, mortgages, student loans, and small business loans. A permanent exemption of COD income that accrues during this period will remove the threat of a large and unwarranted tax bill and the likelihood of unreasonable tax collection activities for Americans that are just getting back on their feet.

Again, we appreciate your efforts during this unforeseeable public health and economic crisis. We welcome the opportunity to work with you on this and other aspects of the government's coordinated policy response.

Sincerely,

A handwritten signature in black ink, appearing to read "Jeffrey D. DeBoer". The signature is fluid and cursive, with a large initial "J" and "D".

Jeffrey D. DeBoer
President and Chief Executive Officer