

November 5, 2014

The Honorable Harry Reid  
Senate Majority Leader  
United States Senate  
Washington, DC 20510

The Honorable Mitch McConnell  
Senate Republican Leader  
United States Senate  
Washington, DC 20510

Dear Leaders Reid and McConnell:

As you prepare the legislative agenda for the remaining days of the 113th Congress, we urge you to include the bipartisan and widely supported Menendez/Enzi proposal to create jobs and stimulate investment in U.S. commercial real estate by providing relief from the Foreign Investment in Real Property Tax Act (FIRPTA).

The Menendez/Enzi proposal is a modified version of the Real Estate Investment and Jobs Act (S.1181), legislation cosponsored by 40 U.S. Senators, including 21 of the 24 Members of the Senate Finance Committee. The modified version was filed as an amendment by 10 Finance Committee Members during committee consideration of the highway bill. Combined, its provisions would serve as a strong, market-driven catalyst for putting Americans back to work modernizing U.S. commercial real estate and repairing our nation's crumbling infrastructure.

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 Yet today's outdated tax laws actively discourage investment from overseas in places where it could have a tremendous economic impact – notably infrastructure and the commercial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 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. FIRPTA reform is a cost-effective way to unlock private capital and drive new, job-creating investment here at home. 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. In addition to the bipartisan support in the House and Senate, the President actively supports FIRPTA reform and has included a FIRPTA relief proposal in his last two budgets and as part of his infrastructure initiative, the "Rebuild America Partnership."

The Menendez/Enzi proposal includes two critical provisions to mobilize foreign capital for investment in the United States. First, it would remove the tax penalty that FIRPTA imposes on foreign pension funds that invest in U.S. real estate and infrastructure. Second, it would increase the ownership stake that a foreign investor can take in a publicly traded company whose assets consist largely of U.S. real property without triggering FIRPTA liability and extend the provision to certain collective investment vehicles.

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We hope you will take an important step to boost job growth, promote inbound investment, and improve our infrastructure by passing the Menendez/Enzi FIRPTA reform proposal.

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 Real Estate Investment Trusts  
National Association of REALTORS®  
National Multifamily Housing Council  
The Real Estate Roundtable