

# Priority Issues

Spring 2024

## UPDATE AMERICA'S TAX CODE TO INCREASE ACCESS TO HOMEOWNERSHIP

REALTORS® serve residential and commercial property buyers and sellers in every zip code. Members of the National Association of REALTORS® provide critical support to consumers, serving as a trusted advisor through one of the biggest financial decisions of their lifetime.

With current market challenges like rising prices and low inventory, as well as shifting trends in commercial real estate, those seeking to buy or sell a home or open or expand a business know they need a REALTOR® by their side.

Addressing housing affordability starts with adding to the nation's severely limited inventory. The U.S. is facing an **underbuilding gap of 5.5 million units**, translating to a **\$4.4 trillion underinvestment in housing**. America's tax law can and must do more to promote homeownership, build stable communities, and boost economic growth.

### REALTOR® Priorities

- **Cosponsor the bipartisan More Homes on the Market Act to incentivize more long-term owners to sell their homes** by increasing the maximum amount of capital gains a homeowner can exclude on the sale of a principal residence and annually adjusting it for inflation.
  - H.R. 1321 is sponsored by Representatives Jimmy Panetta (D-CA) and Mike Kelly (R-PA).
- **Cosponsor the bipartisan Neighborhood Homes Investment Act to attract private investment for building and rehabilitating owner-occupied homes** by offering tax credits that create a pathway to neighborhood stability through sustainable homeownership. Providing this powerful incentive to build and rehabilitate homes for low- and moderate-income homeowners can fill the gap in areas where it is often more expensive to develop or rehabilitate than appraisal values will support.
  - S. 657 is sponsored by Senators Ben Cardin (D-MD), Todd Young (R-IN), Ron Wyden (D-OR), Jerry Moran (R-KS), and Sherrod Brown (D-OH).
  - H.R. 3940 is sponsored by Representatives Mike Kelly (R-PA) and Brian Higgins (D-NY).
- **Cosponsor the Affordable Housing Credit Improvement Act or legislative provisions to expand the Low-Income Housing Tax Credit** and encourage investment in creating and preserving affordable housing.
  - S. 1557 is sponsored by Senators Maria Cantwell (D-WA), Todd Young (R-IN), Ron Wyden (D-OR), and Marsha Blackburn (R-TN).
  - H.R. 3238 is sponsored by Representatives Darin LaHood (R-IL), Suzan DelBene (D-WA), Brad Wenstrup (R-OH), Don Beyer (D-VA), Claudia Tenney (R-NY), and Jimmy Panetta (D-CA)

- **Support small business by preserving the 199A qualified business income deduction** and keeping taxes on business income lower for independent contractors and pass-through business owners.
- **Support commercial real estate investment** and economic development by preserving 1031 like-kind exchanges.
- **Incentivize homeownership by increasing the \$10,000 cap on the state and local tax (SALT) deduction and eliminate the penalty for married taxpayers filing jointly**, who have the same maximum deduction as single filers.

## FAQs

### Why should Congress update the capital gains tax exclusion on the sale of homes?

- U.S. tax law provides what was once a generous capital gains exclusion on the sale of a principal residence.
- Since 1997, this amount has been \$250K for singles and \$500K for those filing jointly.
- Over the past 27 years, home price inflation has eroded the value of these exemptions, especially for older homeowners who have lived in their home for 20 years or more.
- At a time when many of these homeowners are considering downsizing or moving to a retirement facility, they are facing gains well in excess of the exclusions, which can leave them owing many thousands of dollars in tax and reduce their ability to afford their new home.
- When an older homeowner decides not to sell, it limits the number of homes on the market, causing first-time homebuyers to face higher prices and more competition.
- Increasing the exclusion and indexing it for inflation removes this disincentive for current homeowners to sell, unlocking a segment of inventory previously unavailable to prospective buyers.

### How can Congress stabilize and revitalize struggling neighborhoods?

- Tax credits can help attract private investment to neighborhoods where property values are currently too low to support the cost of building or rehabilitating homes.
- Improving or replacing a critical number of homes in these neighborhoods would raise the appraised values of all homes in the neighborhood, increasing the desirability of the area.
- Congress can design the tax credits to directly help low- and moderate-income households earning less than 140% of area median income who want to purchase affordable, entry-level homes and live in them for at least 5 years.
- Assuming an average tax credit of \$40,000, results over 10 years would include:
  - 500,000 homes built or substantially rehabilitated,
  - 785,714 jobs in construction and related industries,
  - \$29.3 billion in federal, state, and local tax revenues and fees.

### How does the SALT deduction limitation harm homeownership and real estate investment?

- By limiting deductions for property taxes, the Tax Cuts and Jobs Act of 2017 removed a long-standing incentive for the majority of current and prospective homeowners, making homeownership more difficult to achieve.
- Limiting the property tax deduction on commercial or rental real estate also reduces its value by reducing its after-tax return on investment.



### Why should Congress expand the Low-Income Housing Tax Credit?

- Not every household is ready or wants to be a homeowner at every stage of their lives. However, every individual or family deserves to have access to safe, decent, and affordable housing.
- The Low-Income Housing Tax Credit is the most successful affordable rental housing production program in U.S. history and expanding it is projected to result in nearly 2 million additional affordable rental homes.

### What is the Qualified Business Income Deduction (199A) and why must it be preserved?

- The centerpiece of the Tax Cuts and Jobs Act (TCJA) of 2017 was a large cut in corporate taxes from 35% to 21%. Congress believed it vital to also reduce tax rates for independent contractors such as REALTORS® and other “Main Street” businesses like partnerships, S corporations, and limited liability companies (LLCs).
- Therefore, the TCJA also included a 20% deduction for business income of these pass-through businesses. However, this deduction is scheduled to end at the end of 2025.
- Allowing it to expire would be grossly unfair and harmful to the majority of the nation's business enterprises and the economy.

### Why is the 1031 like-kind exchange important?

- The great majority of properties exchanged were held by small investors, and in 89% of the exchanges, clients invested significant additional capital into the property, creating jobs and increasing economic growth.
- Like-kind exchanges accelerate economic growth by preventing properties from languishing. LKEs put real estate into the hands of new owners with the time, resources, and desire to restore and improve them, which invigorates the economy and creates jobs.
- Some in Congress believe that like-kind exchanges represent an unwarranted “loophole” that should be closed. However, in discussions with Capitol Hill, we find there is often a lack of understanding of how section works and its benefits to communities and the economy.
- Surveys indicate a high percentage of REALTORS® were involved in at least one 1031 transaction in the past five years.

## ENSURE EQUAL ACCESS TO PROFESSIONAL REPRESENTATION AND SUPPORT FAIR HOUSING

As stewards of the right to own, use, and transfer private property, REALTORS® know an open housing market free from discrimination benefits consumers, communities, and the American economy. Yet, more than 50 years after passage of the federal Fair Housing Act, the homeownership rates for African Americans, Hispanic Americans, and Asian Americans lag behind that of White Americans. The LGBTQ+ community continues to face widespread discrimination in housing.

Bound by a Code of Ethics, **REALTORS® are committed to upholding fair housing laws and removing barriers to homeownership.**



## REALTOR® Priorities

- Ensure veterans maintain access to professional representation and can compete in the market by **giving VA buyers the option to compensate their broker directly.**
- **Cosponsor the Direct Seller and Real Estate Agent Harmonization Act to ensure real estate agents maintain their independent contractor status** under the Fair Labor Standards Act and preserve their ability to choose their preferred business classification.
  - H.R. 5419 is sponsored by Representatives Tim Walberg (R-MI) and Tony Cárdenas (D-CA).
- **Support the bipartisan Fair and Equal Housing Act** to add sexual orientation and gender identity as protected classes under the Fair Housing Act.
  - H.R. 4439 is sponsored by Representatives Brad Schneider (D-IL) and Brian Fitzpatrick (R-PA).
- **Reauthorize and increase funding for HUD fair housing enforcement programs.** Congress should support legislation that reauthorizes and increases funding for HUD's fair housing enforcement programs.

## FAQs

### Why should real estate professionals be given a federal protection to remain independent contractors?

- Real estate professionals are vital to thriving communities.
- Real estate represents 16.3% of U.S. GDP, supporting 2.8 million jobs and generating \$50 billion in tax revenue nationwide. Each home sale produces \$120,000 in local economic activity.
- 88% of REALTORS® are small business owners and 62% are women, using their professional expertise to help consumers navigate the intricacies of real estate transactions.
- 89% of REALTORS® are classified as independent contractors and choose to be classified as such because this work arrangement provides greater freedom, flexibility, and autonomy and allows for greater flexibility for consumers.
- The U.S. Department of Labor released a final rule on worker classification under the Fair Labor Standards Act (FLSA) that creates a risk that REALTORS® may be misclassified as employees instead of independent contractors if the rule is applied under certain facts and circumstances.
- The *Direct Seller and Real Estate Harmonization Act* would ensure that real estate professionals continue to have the ability to choose how they are classified for labor purposes and is supportive of real estate professionals being classified as independent contractors.

### Why should the Department of Veterans Affairs expand allowable fees for VA buyers?

- Under current VA regulations, veteran buyers are unable to pay for professional representation.
- In situations where offers of compensation are not offered by home sellers, or negotiations over buyer broker commissions take place, this immediately puts veteran buyers at a disadvantage, forcing them to forego professional representation, lose a property in an already tight market, choose a different loan product, or exit the market entirely.
- Prohibiting VA buyers from paying for their own buyer representation could put them a step behind competing offers if no compensation is being offered from a seller.
- Not allowing veterans to compensate their buyer representative directly could also negatively impact the VA home loan program, as buyers may turn to other loan products. NAR wants to ensure the VA home loan program remains strong and veteran buyers have access to the benefits promised to them for their service and sacrifice to their country.



### **Why should Congress adopt the Fair and Equal Housing Act?**

- In 2009 and in 2013, REALTORS® adopted policy affirming that the right to buy or rent housing should not be abridged due to a home seeker's sexual orientation or gender identity.
- REALTORS® celebrated the Supreme Court's *Bostock* decision, holding that the prohibition on discrimination in employment "because of sex" included discrimination based on sexual orientation and gender identity.
- NAR applauded HUD's quick action to apply *Bostock* to the Fair Housing Act.
- By enacting the Fair and Equal Housing Act, Congress can codify what is effectively the law of the land.

### **How will increasing funding for HUD fair housing programs reduce barriers to homeownership?**

- Recent investigations show there is still widespread discrimination in the housing market.
- We must be more proactive in uncovering and investigating fair housing violations. An enforcement system that relies solely on complaints will miss most fair housing violations.

### **What actions is NAR taking to close homeownership gaps among demographic groups?**

- Housing supply and affordability challenges fall hardest on communities of color. Efforts to increase the supply of affordable homes for purchase is essential to closing racial and ethnic homeownership gaps.
- NAR continues to advocate for policies that increase access to mortgage finance, such as updated credit scoring models, special purpose credit programs, and down payment assistance for qualified buyers.
- NAR is a proud partner of the Black Homeownership Collaborative, which aims to add 3 million net new Black homeowners by 2030.

### **What solutions has NAR advocated for to confront appraisal bias?**

- Like other REALTORS®, NAR's appraiser members are held to NAR's Code of Ethics, but more is being done.
- NAR has advocated for increased diversity in the appraisal profession by supporting alternative education requirements for appraisal licensure, and mentorship and recruitment programs.
- NAR supports a uniform Reconsideration of Value process for consumers to question an appraisal.
- NAR supports increased training and guidance from regulators to ensure appraisers are aware of their fair housing obligations and are held accountable for any violations.

### **How does NAR's ACT! Initiative advance accountability for real estate professionals?**

- NAR's ACT! initiative, emphasizing Accountability, Culture Change, and Training, continues to advance fair housing in the industry.
- NAR has urged state associations to increase fair housing training requirements for licensure and is promoting best practices in fair housing enforcement by state-level real estate commissions.
- NAR has launched a self-testing program for real estate brokerages to check their agents' compliance with fair housing laws and take corrective action.



# RESEARCH

## NAR Research Products Help Inform Policymaking

The NAR Research Group is a resource both for REALTORS® and the members of Congress who represent them. Our skilled economists produce and analyze a wide range of data, providing the best resources and information on real estate.

Research reports, papers, case studies, and surveys examine the latest trends and activities in real estate, as well as the impact national policies have or may have on this critical sector that makes up one-fifth of the nation's economy.

These resources are available to policymakers, and we encourage their use when considering legislation that affects real estate and real estate professionals. Here are a few recent NAR Research reports that can inform policymaking:

- [Congressional District and State Reports](#), [State Economic Impact Reports](#), and [Local Market Reports](#) provide data on housing and real estate trends affecting your constituents to inform policies supporting sustainable and affordable homeownership and a vibrant residential and commercial real estate market.
- Reports on home buying, such as [Home Buyers and Sellers Generational Trends](#), [Wealth Gains by Income and Racial/Ethnic Group](#), and [A Snapshot of Race and Home Buying in America](#) analyze market trends and show how homeownership can be a catalyst for building generational wealth.
- NAR Research and Realtor.com® partnered on [The Issue: Housing Affordability and Supply](#) to estimate how many homes are missing by income level, comparing the number of homes available and affordable for each level now versus what they should be able to afford in a balanced market.
- [Commercial Market Insights Reports](#) and [Commercial Real Estate Metro Market Reports](#) reveal the crucial role of commercial real estate in revitalizing communities.

**Many more reports, surveys, and data collections are available on the [NAR Research page](#).**

