



The Honorable John Thune
Senate Majority Leader
511 Dirksen Senate Office Building
Washington, DC 20510

The Honorable Mike Crapo
Chairman, Senate Finance Committee
239 Dirksen Senate Office Building
Washington, DC 20510

June 18, 2025

Dear Majority Leader Thune and Chairman Crapo:

On behalf of the Mortgage Bankers Association (MBA)¹, I am writing to share our association's views regarding Section 899. We support the goal of incentivizing foreign governments to reform tax policies that unfairly target American businesses and their employees through Section 899 of the reconciliation legislation currently being considered by the Congress. We also appreciate the inclusion of language in the text released by the Senate Finance Committee regarding the delay in the applicability date of Section 899. While we appreciate the intent of Section 899, we are concerned that without appropriate tailoring, the higher tax rates of the provision, and – even with the delay – the threat of them, will choke important investment and lending in American communities.

BACKGROUND

American communities – apartments, office buildings, retail shops, industrial properties, and more – are built and maintained using a combination of equity and debt from a variety of sources. Increasing the tax rates paid by certain foreign individuals and entities on interest coming from mortgage loans backed by domestic real estate, including single family mortgages,

¹ The Mortgage Bankers Association (MBA) is the national association representing the real estate finance industry, an industry that employs more than 275,000 people in virtually every community in the country. Headquartered in Washington, D.C., the association works to ensure the continued strength of the nation's residential and commercial real estate markets, to expand homeownership, and to extend access to affordable housing to all Americans. MBA promotes fair and ethical lending practices and fosters professional excellence among real estate finance employees through a wide range of educational programs and a variety of publications. Its membership of more than 2,000 companies includes all elements of real estate finance: independent mortgage banks, mortgage brokers, commercial banks, thrifts, REITs, Wall Street conduits, life insurance companies, credit unions, and others in the mortgage lending field. For additional information, visit MBA's website: www.mba.org.

will directly limit the availability and increase the cost of those mortgages. In many cases, it will lead to increased costs for borrowers on loans that have already been made. And we have already heard that uncertainty around the provision, and in how it may or may not be implemented and its potential application and impact, has chilled the flow of investment as potential investors pause their commitments to potentially affected U.S. funds until they can be certain they will be exempted.

There are important safeguards (such as the portfolio interest exemption) already in place to protect some elements of mortgage lending, and provisions are being considered (including a Section 899 exception for portfolio income) to extend that protection to interest and other income received by non-controlling investors. We support such measures and ask that you ensure consistency and a level-playing field by clearly extending such exemptions to interest earned from all potentially impacted mortgages backing domestic income-producing properties. Absent such consistency, borrowers, lenders, co-lenders, investors, and others will need to reassess their roles in the face of the threat of potentially massive, variable tax increases – on both future and existing mortgage loans.

APPROPRIATE TAILORING

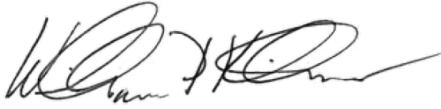
To address these concerns, we believe the legislation should:

1. Make clear that the provision preserves the existing portfolio interest exemption and that income currently covered by that exemption is not subject to the Section 899 tax increases,
2. Include specific language in Section 899 that exempts portfolio income from the applicable tax increases, and
3. Make clear that the language added to Section 899 in (2) above excludes from the higher tax rates interest income derived from mortgage loans backed by domestic single family and domestic income-producing properties.

Regardless of the structure of the investment vehicle, interest earned from investments in mortgage loans backed by domestic residential and commercial real estate does not result from foreign control of the property, and the resulting investments support the construction of homes, conversion of obsolete office properties, investment in industrial properties, redevelopment of communities, and more. Such interest income should be exempted from Section 899 taxes regardless of the vehicle employed.

Thank you for your attention to these important issues. If you or your staff have any questions, please contact me at bkillmer@mba.org or (202) 239-1894.

Sincerely,

A handwritten signature in black ink, appearing to read 'Bill Killmer', with a stylized flourish extending to the right.

Bill Killmer
Senior Vice President
Legislative and Political Affairs