PROTECTING IRA INVESTMENT CHOICE.

The purpose of this one pager is to give you additional information so you and your office may be able to better assist other Members and their staff that are hearing from members of the Seller Finance Coalition and other organizations of real estate investors relative to a couple of dangerous provisions in the “Build Back Better” legislation, specifically sections 138312 and 138314, which would destroy the self-directed retirement account investing and harm the 80 Billion dollar self-directed IRA industry.

As you may recall, several members of the Seller Finance Coalition and attendees at previous Fly-Ins are from the custodial companies that serve this large customer base. The values and principles of the Seller Finance Coalition translate into the self-directed IRA space, specifically allowing individuals to use their own capital in the way they see fit and invest it while fully understanding the risks they are bearing, all in an effort to improve real estate in their local economy.

Allow me to share just one of many specific examples. I represent three brothers who have combined their IRAs to form an entity that lends money to a starter-home builder near McAllen, Texas. They have been lending to this builder over a four-year period of time, and he has built dozens of homes that are sold to first-time home buyers. Sections 138312 and 138314 would force them to stop lending and make them unwind the LLC. That is one example out of dozens that I could share with you. Section 138314 would prevent these brothers from investing their IRAs into a limited liability company so as to combine their capital and then lend it from the LLC to the home builder.

Should these provisions in the “Build Back Better” get passed, they will cause a huge capital withdrawal from the residential and multi-family residential real estate market because these provisions would require investors who have made these particular investments with their self-directed retirement accounts to unwind them and get them returned to their accounts within two years. This would create a huge capital drain in the marketplace, and it would drain capital that banks and other lenders are not prepared, willing, or able to supply. We are talking about twenty five (25) billion dollars or more that must be withdrawn from existing investments.

I understand the “Peter Thiel problem”. Turning $2,000 into $5 billion tax free via a Roth IRA was probably not what Congress intended when it created those accounts. It appears the IRS did not understand its own rules when it did audit Mr. Thiel’s account, specifically 26 U.S.C. 4975(e)(2)(E) which lists disqualified persons. Had that section of the Code been properly interpreted and applied by the IRS during its audit of Peter Thiel’s IRA, I respectfully submit that the IRS could have and should have found that Mr. Thiel had violated that section (E), thereby disallowing his entire IRA and making all of his and his partners PayPal profits taxable.

The important thing to understand is that Sections 138312 and 138314 do not target the “Peter Thiel problem”. They target and harm every single self-directed IRA investor who has studied the complex rules, learned them, and invested locally in things that they understand so they can take responsibility for their golden years. I cannot imagine that Congress means to wreck that, especially since proposed Section 138302 clearly solves the Peter Thiel problem.

I'm asking you to use your knowledge and influence to protect the non-millionaires and non-billionaires who believe they can invest their own money in ways they best see fit. I am asking you and your boss to stand up for the little gal and guy. You have stood up for the small investor many times in the past on behalf of the Seller Finance Coalition, and I'm asking that you do the same thing here.

These two particular sections, 138312 and 138314, are projected to raise so little revenue ($180 million over 10 years) that removing them from the “Build Back Better” Bill is of no consequence. Leaving these provisions in the Bill is of massive adverse consequence to the real estate investing industry, of which you are a champion.

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