American Bankers Association
Building Success. Together.

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The Honorable Max Baucus
Chairman, Committee on Finance
United States Senate
219 Dirksen Senate Office Building
Washington, D.C. 20510

The Honorable Orrin Hatch
Ranking Member, Committee on Finance
United States Senate
219 Dirksen Senate Office Building
Washington, D.C. 20510

Dear Chairman Baucus and Ranking Member Hatch:

As stated in your recent memo, "America's tax code is broken." As you work your way through the process of reforming the United States tax code, the American Bankers Association (ABA) strongly recommends that the deep tax subsidy the Farm Credit System (FCS) has long enjoyed be repealed. While not well known, the FCS is a ***$247 billion*** Government Sponsored Enterprise (GSE) that competes ***directly*** with banks, making farm, ranch, consumer, housing, business, and energy loans.

If the Farm Credit System were a bank, it would be the ***ninth*** largest one. But as a GSE, it does not pay taxes at the same rate as banks. In fact, FCS profits were $4.34 billion in 2012, yet it only paid a total of $222 million in combined federal, state, and local taxes – an effective tax rate of only 5.12 percent. Had it paid an effective rate of 29 percent – which is what banks pay according to the FDIC – it would have paid $1.285 billion in taxes. ***This means that the FCS's tax subsidy will cost taxpayers at least $6.44 billion over the next five years.***

The reason for its creation – and its enormous tax break – no longer applies. The Farm Credit System, the first GSE, was created in 1916 when farmers had limited options available to finance their farms and ranches.[1] That is no longer true in rural America today. Thanks to a robust banking industry, rural Americans enjoy the same credit opportunities their urban counterparts do.

Furthermore, the FCS lacks a specific statutory mission (even though it is a GSE) to do anything other than compete with taxpaying institutions. The credit FCS provides to farmers and ranchers often goes to farmers who least need subsidized credit. For example, according to the regulator of the FCS, the Farm Credit Administration, less than 12 percent of all FCS loans in 2012 went to young farmers. Less than 18 percent of all FCS loans were made to small farmers, and less than 16 percent of all FCS loans in 2012 were made to those farmers and ranchers who were entry level farmers.[2] All three categories would be the most appropriate types of farmers and ranchers to receive the subsidized credit the FCS provides. But as can be seen from the report, only a small percentage of the subsidized credit actually goes to those who need it the most.

[1] To help stand up the Farm Credit System, Congress decided that all FCS real estate lending activity would be exempt from federal taxation.

[2] "FCA's Annual Report on the Farm Credit System's Young, Beginning, and Small Farmer Mission Performance: 2012 Results". Produced by the Farm Credit Administration's Office of Regulatory Policy. Farm Credit Administration Board Meeting presentation, June 13, 2013.

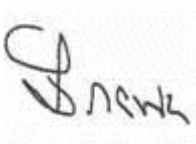
As the FCS continues to grow, so will its tax subsidy. And the FCS is growing rapidly by any measure. For example, between 2000 and 2011, FCS mortgage loans grew at a compound rate of about 8 percent, with double-digit growth in four of those years.[3]

Moreover, its growth also impacts state and local governments' tax revenues. For example, the FCS has bullied states into accepting that it is a *federal instrumentality*, and therefore not subject to state taxation. The FCS has further used its GSE status to withhold payment of local taxes, such as mortgage recordation fees charged by counties.

The simple fact is that FCS lenders are indistinguishable from taxpaying banks – and should be taxed like banks. U.S. taxpayers can no longer afford to subsidize direct competitors like the Farm Credit System.

The time has come for Congress to abolish the FCS tax subsidy. With $247 billion in assets and more than $4 billion in profits annually, the Farm Credit System is fully capable of paying its share of taxes.

Sincerely,



Frank Keating

Cc: Members of the U.S. Senate

[3] "A Bubble to Remember – and Anticipate?", Alex J. Pollock, American Enterprise Institute, Washington, DC. November 2012.