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ICSC urges Congress to say "No" to carried interest tax hike

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The International Council of Shopping Centers (ICSC) is warning members of Congress that a proposed change to the taxation of "carried interest" could derail a real estate recovery by disproportionately impacting small to medium sized real estate partnerships. Lawmakers are currently considering an increase on the taxation of carried interest and the character from the current capital gains rate of 15% to the higher ordinary income tax rate of 35%.

This legislation is aimed at curbing the perceived abuses of hedge funds. Unfortunately commercial real estate, which is already in crisis, is swept up unintentionally in the proposal. Developers use carried interest as the return for shouldering the tremendous risks and liabilities associated with real estate projects, such as environmental concerns, operational shortfalls, construction delays and loan guaranties.

"Although the intent of this legislation is to address the tax rate inequity enjoyed by Wall Street private equity and hedge fund managers, the reality is that the increased tax on carried interest will adversely impact small businesses, as most real estate ventures are organized as limited partnerships or LLCs," said Michael Kercheval, ICSC president and CEO. "While it is understandable that Congress wants to rein in the enormous profit-taking by Wall Street firms, this legislation will actually hurt 'mom-and-pop' businesses. This tax hike will not impact hedge fund managers who will just re-price, restructure or move overseas. Instead, Main Street real estate in communities across America will be left to pay the more than 100% increase in taxes," said Kercheval.

ICSC is also educating legislators about the important role carried interest plays in the recovery of the U.S. economy by encouraging new investment and development. "Right now Congress should be encouraging investment in our communities, not making it riskier. This is not just a tax issue; it is an issue of job creation, economic recovery and revitalization of communities across the country," Kercheval said. "There is a great deal of risk and personal financial guarantees involved in real estate development, if the increase is enacted, the risk becomes even greater - and more expensive. It will force entrepreneurs in communities across the country to think twice about undertaking new projects, especially those built on brownfields, or as mixed-use or low-income developments," Kercheval added.