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## **A great month to be in commercial real estate**

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This has been a great month to be in commercial real estate. In May, CCIM Institute, IREM and NAR members participated in the Capitol Hill Visit Day, during which we lobbied our congressional representatives on commercial real estate issues affecting their business. I strongly urge you to contact your congressional reps and oppose the following legislation:

First, Congress is considering taxing "carried interest" at ordinary income rates instead of capital gains. Currently, carried interest is taxed at 15%. We oppose a proposed change to tax carried interest at ordinary income rates. A real estate investment is fundamentally different from a hedge fund or financial instrument investment. An investment in real estate is nothing like playing with other people's money. Real estate is a fixed asset held for a long period of time. The worst thing about this proposal is that, for the first time, a particular type of real estate investment gain would no longer qualify for capital gains treatment. This is a terrible precedent. We should all oppose it.

The real estate industry, in all its commercial, multi-family and individual investment categories, is still very fragile and likely to remain so. These proposals are ill-advised, inopportune and potentially destructive. Keep our real estate market recovery on track by opposing these measures.

Real estate partnerships are often organized as limited partnerships in which the limited partners provide capital and the general partner(s) provides operational expertise. When the partnership property is sold, the limited partners generally reap the profits in proportion to their capital investment. Often, however, the limited partners grant a profits interest to the general partner(s). This profits interest is known as a "carried interest." A carried interest is designed to act as an incentive for a general partner to maintain and enhance the value of the real estate so that the operation of the property is a value-added proposition.

Under current consideration by both the Senate and House of Representatives are bills aimed at extending tax cuts enacted during the Bush Administration, set to expire Jan. 1st, 2011. This legislation is commonly known as the "Tax Extenders Package."

In order to extend the tax cuts, Congress is seeking new revenue sources to fund the extensions. Included in the current legislation is a provision to change the tax treatment on carried interest from capital gains to ordinary income. Currently, the capital gains rate is 15%. Changing the tax treatment to ordinary income would raise tax rates on carried interest to 39.5%.

Changing the tax treatment of carried interest would be detrimental to commercial real estate because taxing the general partner at an ordinary income rate would create a disincentive for real estate investment, further damaging an already fragile market.

In addition to changing the tax treatment on carried interest there are bills that will require all landlords, even those who own only one property, to provide an IRS 1099 form to all contractors (plumbers, repairmen, etc) with whom they do business if they pay that contractor more than \$600 per year. This is a complicated and burdensome requirement, as many rental property owners

manage modest family properties simply as an investment or part of a retirement savings plan. This type of property owner is commonly unaware of the 1099 requirement and/or unfamiliar with complex IRS procedures. Should they be found in violation of the new requirements, they would face new penalties that many are ill-equipped to pay. This is a trap for the unwary. Since many of our clients are "little guys" looking to supplement their income with real estate investments, any proposal requiring them to file Forms 1099 would impose new expenses and subject them to penalties. Often these small landlords don't use tax professionals; if adopted, this proposal could force them to incur the expense of hiring tax professionals. This proposal is burdensome and overreaching. Oppose it.

Now on to the good news... CCIM TECH has entered into a data-sharing agreement with Catylist to mutually exchange property information between Catylist and CCIMREDEX for all CCIM Institute members. According to Richard Maxson, senior vice president of sales and marketing at Catylist, "We are pleased to finalize our new data-sharing agreement with CCIM TECH for the benefit of the many CCIM Institute members participating on our industry-leading Catylist CIE services across the country. Catylist is committed to putting commercial brokers in control of how they share and market their data locally and nationally to a vast array of online sites. Our data-sharing agreement strengthens this value proposition for CCIM Institute members by ensuring they will only have to enter their data once for it to appear on their Catylist CIE service and on dozens of other sites, including CCIMREDEX. It's a win all around for Catylist, CCIM TECH and most importantly - CCIM Institute members!"

"The agreement between Catylist and CCIM TECH will allow CCIM Institute members to push their listings from CCIMREDEX to Catylist," said Todd Kuhlmann, CCIM and director of CCIMREDEX. "Many of our members currently use Catylist to promote and list their commercial properties. Because of the bi-directional data sharing agreement, CCIM Institute members with access to Catylist can pull their listings from Catylist into CCIMREDEX. Syncing of the commercial listings will enable members to become more efficient by entering property information one time to gain maximum national exposure to potential buyers."

And finally, with Memorial Day just ahead, let's take a moment and remember all our troops who are fighting for our rights and have given their lives across the world so we can be safe in our homeland.

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