

**October 28, 2011**

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### **Final Chance to Register for the ICSC 2011 GR Conference**

Register now for the ICSC Government Relations Leadership meeting on November 7-8, 2011 at the W Atlanta-Midtown.

Join us for an exclusive election preview, policy discussion, legislative update and discussion of critical issues facing the shopping center industry. The GR Leadership Meeting is an excellent opportunity to network with industry leaders and examine new ways to impact public policy. [Click here for more information.](#) The meeting is open to all ICSC Government Relations Volunteers.

### **Congress Considers New Proposals to Address Sales Tax Fairness**

ICSC is anticipating that a new sales tax fairness proposal from Senator Mike Enzi (R-WY) and Senator Lamar Alexander (R-TN) will be introduced shortly. This new legislation will be the third measure on the issue of sales tax fairness introduced in the last few months. Their bill, yet to be named, attempts to combine some provisions from the other legislation previously introduced.

ICSC is pleased to see this momentum and looks forward to working with the Members of Congress who have taken the lead on the issue. To that end, ICSC is sponsoring an ad campaign aimed at supporting the effort to find a federal solution to states' sales tax collection problems. Online-only sellers continue to avoid collecting sales taxes and pass the tax responsibility onto unknowing consumers, who are already required by existing laws to pay taxes on purchases made over the Internet.

### **Real Estate Lessors Likely to be Excluded from Proposed Lease Accounting Rules**

Based on further deliberation and feedback from various groups, including ICSC, the Financial Accounting Standards Board (FASB) and the International Accounting Standards Board (IASB) have signaled that they have modified their approach on lease accounting rules for investment property entities. The Boards have decided that a lessor of an investment property would not be required to apply the proposed residual and receivable approach in the IASB's August 2010 Exposure Draft, Leases, if the lessor measures its investment properties at fair value by electing the fair value model under IAS 40, Investment Property.

The Boards' decision to exclude all lessors of investment properties from the receivable and residual approach gives many real estate lessors the opportunity to continue to use operating lease accounting rules. Given their decision that lessors should apply operating lease accounting to leases of investment properties, the Boards will likely receive requests to reconsider previous decisions on lessee accounting, such as requiring a single income statement recognition model for all leases, including leases of real estate.

The next official draft of the accounting rules are expected first quarter of 2012.

### **Super Committee Turning to Carried Interest Tax Hike?**

The members of the 12-person Joint Committee on Deficit Reduction still seem to be far apart in their approach to shrinking the federal government's debt, based on discussions in their most recent hearing, the first public meeting in weeks. The official Super Committee proposal must be unveiled within one month, but given the partisan divide on revenues and the early stages of tax reform discussions, a grand

deal does not seem practically possible. Instead, we expect to see a mix of cuts, budget gimmicks and an effort to end certain tax loopholes to try and reach the mandated \$1.2 trillion in savings necessary to stave off the automatic sequestration of funds across most of the federal budget.

Unfortunately, increasing the tax on the carried interest in a real estate partnership still remains in the mix under the guise of closing tax “loopholes.” ICSC, along with its real estate industry partners, continues to work to educate members of the committee regarding the legitimate and justifiable use of carried interest in real estate partnerships as a reflection of the real risk general partners take on in a real estate development. We will be doing grassroots alerts to ICSC members in the states of Super Committee members as well.

#### **IN: Commission Holds Hearing on E-Fairness**

The Indiana Interim Commission on State Tax and Financing Policy met on October 20 in Indianapolis to discuss Internet sales and taxation among other issues. The Streamlines Sales Tax Agreement, federal Main Street Fairness Act, Affiliate Nexus laws in other states and recent agreements Amazon.com made with California and Tennessee were discussed during the meeting. It was noted that Amazon.com has a physical presence in the state in the form of a distribution center. The Indiana Retail Association, retailer H.H. Gregg, retailer Best Buy and retailer Aronstam Fine Jewelers testified in support of leveling the playing field with respect to sales and use taxes. The Commission did not vote on any proposed legislation and the hearing was open to public testimony.

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