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#### **Carried Interest Back in the News**

As the Presidential campaign season continues, the increased scrutiny of the finances of Republican frontrunner Mitt Romney has brought the carried interest debate back into the news.

The half-truths on this issue continue and the rhetoric seems to only focus on the earnings of private equity and hedge fund managers. The comparison of tax rates on carried interest with the earnings of secretaries and teachers pushes forward the class warfare message that this tax hike has been associated with.

ICSC and its real estate partners continue to educate lawmakers and the public about the real impact of this tax increase to real estate and family partnerships and the communities in which they are invested. The proposal would raise the tax from 15% to 35% on all capital gains for family real estate partnerships and the capital gains above the capital invested in a real estate deal that the general partner collects at the end of a project.

The next potential legislative threat will be the extension of payroll tax relief and unemployment benefits, set to expire on February 29. ICSC will keep members up-to-date regarding any legislative developments and will continue to ask for your help in reaching out to legislators to explain the real damage that this tax increase would inflict on our industry.

#### **ICSC Develops New Tools for Sales Tax Fairness**

As Congress returns from its holiday recess, ICSC is increasing pressure on the sales tax fairness issue. It will be critical for ICSC members to engage in the coming weeks to help drive the tremendous momentum that is building.

On Jan. 31, ICSC will launch a new website that will be dedicated to sales tax fairness and its impact on 21st Century retail. The website will provide valuable information about how the online sales tax loophole is hurting the retail environment, states and communities. It will provide tools to help supporters push Congress to fix the problem, as well as provide media with background on the importance of the issue.

ICSC is also developing additional resources to help its members educate elected officials, friends, family and colleagues about the need for a solution to the online sales tax loophole. Toolkits will be sent

to ICSC volunteer leaders in the next couple of weeks, and materials will be uploaded to the new website to provide an easy way for all members to get involved. Your support and effort is critical to securing a level playing field for all retailers. Look for a link to the new website and toolkit in the next issue of E-news.

### **Indiana, Maryland and Minnesota Governors Seek Collection of Sales Tax on Internet Purchases**

Governors Mitch Daniels (R-IN), Martin O'Malley (D-MD) and Mark Dayton (D-MN) included the collection of sales tax on Internet sales in their 2012 policy priorities. While legislation and specifics of all of these priorities have not been made public at this time, the inclusion of the issue in each Governor's priorities is a noteworthy step towards leveling the playing field between retailers and their out-of-state online competitors.

### **New Jersey, Tennessee and Virginia Legislatures Introduce Sales Tax Bills**

New Jersey Assemblymember Troy Singleton (D) filed Assembly Bill 2003 on Jan. 10, which seeks to expand the state's definition of physical nexus to include warehouses, distribution facilities, offices, and sales or sample facilities that are owned directly or through a subsidiary of an out-of-state retailer. The bill also seeks to include the contractual relationships between an out-of-state retailer and an in-state business that agrees to perform delivery, installation, assembly, or maintenance of a product sold by the retailer as establishing nexus. AB 2003's proposed physical nexus definition expansion seeks to provide the state's department of revenue the authority to compel out of state retailers to collect and remit the state's sales tax. The bill was referred to the Assembly Appropriations Committee.

Tennessee State Senator Mark Norris (R) and Representative Gerald McCormick (R) filed matching bills, Senate Bill 2323 and House Bill 2370, in their respective chambers on Jan. 10. Both bills seek to formalize the agreement Governor Bill Haslam (R) made with Amazon.com with respect to the retailer's physical and affiliate nexus in Tennessee as it relates to the collection of the state's sales tax on purchases made by residents of the state. The agreement established that the State of Tennessee would not require Amazon and similar companies (that sign an agreement) to collect sales taxes until 2014, giving the companies two years to push Congress to pass a national measure to address this issue. SB 2323 was referred to the Senate Finance Ways and Means Committee, while HB 2370 was referred to the House Finance Ways and Means Committee and the Finance Subcommittee.

Virginia State Senator Frank Wagner (R-Virginia Beach), along with six other legislators, filed Senate Bill 597 on Jan. 19. The bill seeks to clarify the definition of physical nexus such that warehouses and distribution centers meet the definition, thus requiring out-of-state retailers that operate those types of facilities in Virginia to collect sales tax on sales made to residents. The bill is in response to the recent announcement by Governor Bob McDonnell (R) that the two new distribution facilities planned by Amazon will not meet the definition of physical nexus and the company can continue to sell products without collecting sales tax. The bill was referred the Senate Committee on Finance.

### **NY: ICSC Applauds Speaker Christine Quinn for Proposing a Wage Mandate Solution**

The retail real estate industry is gratified by New York City Council Speaker Christine Quinn's recent compromise solution to the heated debate over mandated wage requirements in New York City.

"Since ICSC began this campaign, we have stressed the importance of maintaining fair and equitable treatment of all business across jurisdictions," said Damon Hemmerdinger, member of the ICSC New York Government Relations Committee.

Although text of the bill is not yet available, it is believed that the requirement would apply only to developers or entities receiving a financial benefit. By eliminating the extension of the mandate to tenants and future tenants of projects receiving public incentives or subsidies, Speaker Quinn has found a better course of action that will do less to discourage retail businesses wanting to open stores in New York City.

"We want to recognize Speaker Quinn, the Mayor and the Members of the City Council who have resisted an economic policy that would most hurt neighborhoods underserved by quality retail outlets, neighborhoods which contain the greatest concentrations of low- and moderate-income households," said G. Lamont Blackstone, a past dean of the School of Economic Development of the International Council of Shopping Centers.

The legislation is expected to be released next month and will require a vote by the full City Council.

### **NJ: Governor Signs Wastewater Quality Management Plan Legislation**

New Jersey Governor Chris Christie (R) signed a bill on Jan. 17 that aids land development. At issue were sewer service designations, or areas of the state approved to someday have sewer service. The sewer boundaries are important because they determine where large-scale development can take place. Under current rules, county governments can protect land from development and reduce dirty storm water and sewage overflow from running into New Jersey's waterways by removing the property from approved sewer service areas.

The new law keeps sewer service approvals in place for two years and prohibits governments from protecting land already eligible for development by removing the property from areas approved for sewer service. The new law also allows builders to apply to the state Department of Environmental Protection for exemptions for their particular projects. An exemption doesn't have to be consistent with the environmental rules if it provides a net environmental benefit, meaning developers could do mitigation projects on other sites to receive approvals to develop in sensitive areas.

Developments also could be added to sewer service areas even if there isn't treatment capacity there.

### **CA: Proponents Continue Pursuit of Split Property Tax**

The process for an initiative on split roll property tax in California has again been initiated with the submission of a measure titled "Protect Homeowners and Close Corporate Loopholes Act." Intended to be a proposition on the November ballot, this is just the first in a multi-step process before it could go before voters, including gathering the needed signatures.

Among other provisions, the measure requires commercial property be reassessed every three years. It is unknown who submitted the initiative but the language is similar to past measures sponsored by one of the largest public employee unions in the state.

### **CA: Supreme Court Reaffirms Lower Court Ruling Allowing State to Abolish Redevelopment Agencies**

On Dec. 29 the California Supreme Court ruled in the California redevelopment litigation (CRA v. Matosanto). The court upheld ABX1 26, which abolished redevelopment agencies, but struck down companion legislation that would have allowed agencies to survive if they contribute money to the State. As part of the Supreme Court's ruling, California redevelopment agencies are to be dissolved on Feb. 1, 2012.

ICSC and CBPA are active members in a coalition of labor, business, local government, public safety, affordable housing, and redevelopment supporters who are working with members of the legislature to temporarily postpone the Feb. 1, 2012 dissolution deadline in order to preserve the ability to create a restructured redevelopment program.

### **NY: Cuomo Delivers Executive Budget**

Governor Andrew Cuomo (D) unveiled his 2012-13 Executive Budget on Jan. 17. Cuomo's \$132 billion plan includes a comprehensive and coordinated blueprint for economic development. The plan is designed to create jobs in New York State through public-private partnerships that leverage State resources to generate billions of dollars in economic growth, improve the State's infrastructure and support regionally-based economic strategies. Additionally, the Governor has proposed the first \$1.64 billion to be invested in a new \$15 billion NY-Works infrastructure fund designed to help rebuild the state's bridges and roads, with the anticipation it will help spur \$3 billion in private investment. The Governor also laid out plans for a second round of Regional Economic Development Awards.

### **MA: I-Cubed Bill Filed to Update Law**

Representative Jeffrey Sanchez (D - Boston, Brookline) recently filed House Bill 3830, which proposed to make changes to the state's Infrastructure Investment Incentive Program or I-Cubed. The I-Cubed program is a bond-funded \$250 million infrastructure investment fund that uses the increased state and municipal revenue generated from the new project to pay for the public infrastructure improvements necessary for the private development project's success. Representative Sanchez's proposal increases

the I-Cubed fund total from \$250 million to \$400 million while increasing the per city limit of projects from 2 to 4. HB 3830 also seeks to add language to the current I-Cubed law that would allow the development of a parking garage to be included as qualifying public infrastructure. The bill was referred to the committee on Economic Development and Emerging Technologies.

**MA: Stretch Energy Code Could be Expanded**

The stretch energy code, a law allowing municipalities to impose harsher energy efficiency standards than state requirements, is set to be expanded. The Department of Energy Resources will raise the standards of the stretch energy code when the Massachusetts statewide requirements increase this summer. Currently 104 Massachusetts communities have adopted the Stretch Energy Code.

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