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### **ICSC Submits Comments on Harmful Senate Tax Reform Draft**

As reported previously, the Senate Finance Committee has proposed potential provisions for tax reform that could have some very serious ramifications for ICSC members. This week ICSC submitted comments to the committee after collecting feedback on the issue from more than 600 members. ([Click here to read the comments.](#))

In the comments ICSC states that “our members are troubled by how the proposed reforms will impact capital formation and disadvantage investment in retail real estate in general, but especially as compared to other investment opportunities. Collectively the changes included in the Cost Recovery Proposal could have an extraordinarily harmful effect on U.S. retail real estate activity, the valuation of underlying assets, the financial institutions that are invested in retail real estate, and the economy as a whole.”

ICSC is also part of a group of 18 real estate organizations submitting a letter lead by the Real Estate Roundtable that also outlines concerns for the entire commercial real estate industry. ([Click here to read the letter.](#))

It is important to recognize that comprehensive tax reform may be difficult to move forward in the next year given the current Congressional climate. However, if not addressed at every step of the process, any draft proposals could serve as the basis for legislation in the future.

As a recap, the draft proposes a number of reforms to current law that will directly impact retail real estate, including:

- repeal of Section 1031 like-kind exchange rules;
- repeal of the current depreciation rules, in favor of a new system with 43-year depreciation of real property;
- permanent repeal of the Section 179D tax deduction for energy efficient buildings;
- depreciation recapture would be taxed at ordinary income rates;
- limiting to 50% the amount of advertising expenses that can be expensed;
- repeal of the last-in/first-out method of accounting and the lower of cost or market rules; and
- changes relating to the amortization of intangible assets.

If you would like additional information please contact Jennifer Platt, Vice President of Federal Operations at [jplatt@icsc.org](mailto:jplatt@icsc.org).

### **ICSC and Member Companies Urge Immediate House Action on Marketplace Fairness**

ICSC and numerous member companies joined hundreds of businesses and organizations in signing a joint letter to House Judiciary Committee Chairman Bob Goodlatte (R-VA) earlier this month. The signees, collectively representing more than three million American businesses and organizations, called for immediate action on the long-overdue issue of marketplace fairness.

Citing more than 20 years of inaction and the Supreme Court’s recent decision affirming that this is a matter for

Congress to address, the letter urged Chairman Goodlatte “to make the 2013 holiday shopping season the last where Main Street businesses must compete at a government-created price disadvantage.” ([Click here to read the letter.](#))

The U.S. Senate overwhelmingly passed the Marketplace Fairness Act last May in a broad, bipartisan vote. Going back to 1994, the issue of marketplace fairness has had more than 30 hearings in both the House and Senate, including hearings before the House Judiciary Committee in both 2011 and 2012.

### **Deadline Approaching for the Thomas M. Menino Alliance Scholarship**

The ICSC Foundation is proud to offer the Thomas M. Menino Alliance Scholarship to sponsor a public sector or non-profit member of ICSC to enroll in the John T. Riordan (JTR) Global School for Professional Development.

The JTR School is ICSC's most distinguished professional development program. Participants learn about the retail real estate industry and the positive impact quality development can bring to their communities. This scholarship will allow other public officials to follow in Mayor Menino's footsteps by learning how to attract vibrant retail to your community.

Scholarship benefits of the Thomas M. Menino Alliance Scholarship:

- \* Industry wide recognition
- \* Positively impact your community
- \* Learn about retail real estate from industry experts
- \* Attend JTR in Scottsdale, AZ all expenses paid

To find out more about the scholarship and eligibility visit the [ICSC Foundation Website](#). The deadline to apply is February 3, 2014.

### **MA: Minimum Wage May be Tied to Unemployment Insurance Reform**

With things gearing up at the State House after a long winter break, the state's minimum wage is an issue likely to receive a great deal of attention. Before the break, the Senate passed SB 1925, which would raise the minimum wage in Massachusetts from \$8 to \$11 per hour over the course of three years and tie future increases to inflation. House Speaker Robert DeLeo (D) has said publicly that he does not want to raise the minimum wage without also tackling unemployment insurance reform. Senate President Therese Murray (D) has also said she would support unemployment insurance reform but does not see the need to handcuff the two issues together. Opponents of the measure believe that raising the minimum wage will lead to fewer jobs and fewer hours for low-wage employees.

### **MA: Water and Energy Use Reporting to Begin in May**

As part of the City of Boston's Climate Plan, which aims to reduce greenhouse gas emissions by 25% by the year 2020, non-residential buildings located in the city that are 50,000 square feet or larger must report their water and energy use. Under the Building Energy Reporting and Disclosure Ordinance, which was passed in May 2013, these buildings must complete energy benchmarking every year beginning on May 15, 2014. Buildings that are 35,000 square feet or larger must begin reporting in 2016. Energy benchmarking is the process of using the Environmental Protection Agency (EPA) Portfolio Manager website to measure energy and water consumption. Owners who fail to complete benchmarking will be subject to fines. Buildings with high energy performance are exempt from the ordinance. Buildings can attain exemption by meeting criteria on the EPA's website, showing a pattern of significant and consistent improvements in energy performance, or instituting a comprehensive institutional energy management plan.

### **MN: Repeal of Business Taxes Emerges as Legislative Priority**

Nearly 300 bills were pre-filed and introduced this week, six weeks before the 2014 legislative session starts. Legislative leaders saw this as a way to expedite the process before the shorter than normal session begins. Nearly 20 bills were filed to repeal the three unpopular business-to-business taxes that were implemented during the 2013 session. Governor Mark Dayton (DFL) has hinted his desire is to repeal the three taxes early this session if the February forecast stays on track. However, Senate Majority Leader Tom Bakk (DFL) has been apprehensive about supporting the repeal.

On January 22, the ICSC Government Relations Committee is hosting an event for members to help determine the 2014 legislative agenda. GR committee members will meet from 4:30 pm to 7:30 pm at Kieran's Irish Pub in downtown Minneapolis to discuss priorities for the two scheduled lobbying days March 3-4. For further information please contact ICSC Minnesota lobbyist, Tara Erickson at [TaraErickson@gmail.com](mailto:TaraErickson@gmail.com) or call 612-280-8998.

### **NY: Governor Opens Session Outlining Plans for Tax Relief**

On January 8 Governor Andrew Cuomo (D) commenced the 2014 Legislative Session by delivering his fourth State of

the State address. Cuomo pledged no tax increases but instead outlined his plans for \$2 billion in tax relief, particularly aimed at in-state businesses. Specifically, the Governor proposed merging the bank tax into the corporate franchise tax and lowering the rate to 6.5%. Manufacturers would receive a tax credit equal to 20% of their annual property tax bill and the corporate income tax rate would drop to zero for upstate manufacturers. The Governor also wants to accelerate the phase out of the 18-A utility surcharge and a two-year property tax freeze on households outside NYC with income under \$500,000, but only in jurisdictions that keep spending below the tax cap.

### **OH: Members Testify at State Capitol**

ICSC members Lori Bongiorno (M+A Architects), Tom Carter (Real Estate Development Advisors), and Don Casto (CASTO) presented proponent testimony in front of the House Judiciary Committee on HB 333 earlier this week. HB 333 would protect business owners from frivolous Americans with Disabilities Act (ADA) litigation while allowing for valid accessibility violations to be corrected. The bill would require the aggrieved party to provide notice to the responsible party of the property where the alleged violation occurred. Upon notification, the responsible party would be given 30 days in which to respond in one of the following ways: 1.) State that improvements will be made to bring the property into compliance with accessibility laws at which point a full 120 days would be given to make the corrections; 2.) Challenge the validity of the alleged violation; or 3.) State that the violations have already been corrected.

Bongiorno, Carter and Casto shared with the committee their experiences dealing with these frivolous lawsuits. All three detailed the increasing problem of being faced with ADA violation lawsuits with each new project and how the threat of prolonged litigation leads to the undesirable decision to seek a settlement. The committee got a firsthand look at how these settlements cost ICSC members and Ohio businesses thousands of dollars without ever addressing the issue of accessibility. The Ohio Council of Retail Merchants, Ohio Grocers Association, Ohio Restaurant Association and Ohio Chamber of Commerce all joined ICSC in supporting of HB 333. Further hearings are expected on the bill in the coming weeks and ICSC Ohio members will continue to actively push for its favorable consideration.

### **Register Now for SLS 2014: The ICSC Federal Fly-In**

For more than 20 years the shopping center industry has assembled in Washington, DC to deliver its legislative agenda to Capitol Hill. This year ICSC will hold the 2014 Strategic Leadership Summit on March 25-26. We invite you to participate in this important event. Make your voice heard during the second session of the 113th Congress on critical legislation ranging from sales tax fairness to tax reform to the environment. SLS provides an opportunity to have face-to-face meetings with Members of Congress or their staff where you can articulate your views on issues of importance to your company and the shopping center industry. [Click here to register and for more information.](#)

**ICSC Global Public Policy**  
555 12th Street, N.W., Suite 660  
Washington, DC 20004  
202-626-1400

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For inquiries about the Global Public Policy office, contact [gpp@icsc.org](mailto:gpp@icsc.org) or call +1 202 626 1400.