



December 20, 2013

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ICSC Collecting Input 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. The committee has requested public comments be submitted by January 17 and we are asking our members to send us examples of how business decisions will be impacted by the proposed changes.

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. ([Click here to view the proposal.](#))

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 and to provide input in this process, please contact Jennifer Platt, Vice President of Federal Operations, (jplatt@icsc.org) by Friday, January 10, 2014.

Opposition Builds to Proposed CWA Changes: Action Needed

ICSC continues to oppose a draft rule from the U.S. Environmental Protection Agency (EPA) to expand Clean Water Act (CWA) authority and make changes to the “Waters of the U.S.” definition. The rule would represent the largest-ever expansion of EPA authority, however, ICSC’s primary problem with the rulemaking is that it expands CWA authority to ditches and small waters. Furthermore, the scientific report used by EPA to justify the rule states that all waters, regardless of size or significance in connectivity, require this federal protection. It is important to note that the science has not been peer-reviewed and the independent Science Advisory Board has already called some of EPA’s conclusions into question. The rule also repudiates the 2006 Supreme Court decision, *Rapanos vs. U.S.*, in which Justice Kennedy held that waters must pass a test of significance in order to determine connectivity. If finalized, the rule would declare all connections “significant” without applying the case-by-case test traditionally administered by EPA in conjunction with state and local authorities.

Congressional offices have reiterated the need to hear from constituents on this matter.

[Please click to a letter to send to your elected officials.](#)

To share how changes to the “Waters of the U.S.” definition will affect your business, please contact Abby Jagoda at ajagoda@icsc.org or 202-626-1403.

“Top of the Rock” Holiday ICSC PAC Reception

On December 8 approximately 50 ICSC members attended an ICSC PAC reception at the offices of Sills Cummis & Gross at Rockefeller Center in New York City. The special guest of the evening was Congressman Joseph Crowley (D-NY), who spent the evening discussing issues facing the shopping center industry with members. The event was co-chaired by David LaRue, Adam Ifshin, and ICSC PAC Co-Chairmen, Gary Rappaport and Brad Hutensky. The Host Committee included Richard Baker, Thomas Caputo, Michael Carroll, MaryAnne Gilmartin, Daniel Goodwin, David Henry, Daniel Hurwitz, Jeffrey Newman, Hap Stein, Steven Tanger, Donald Wood and Ted Zangari.

The event raised nearly \$60,000 for the ICSC PAC. ICSC PAC has been a voice for the retail real estate community for over two decades and is the only federally registered political action committee that represents the interests of the shopping center industry. ICSC PAC helps to elect the most qualified pro-real estate/retail industry, pro-business candidates to federal office. If you would like to learn more about the ICSC PAC or how to become involved please contact Kathleen Ford at 202-626-1409 or kford@icsc.org.



L to r: Ken McIntyre (PassPort Real Estate LLC), Richard Tucker (Tucker Development Corp.) and Norris Eber (Abbell Associates).



L to r: Adam Ifshin (DLC Management Corp.), ICSC President and CEO Michael Kercheval, Congressman Joseph Crowley (D-NY), and Anthony Buono (CBRE).

CA: ULI Recommends Redevelopment Replacement

The chapters of the Urban Land Institute (ULI) in Los Angeles and San Francisco are recommending a comprehensive set of economic development tools for cities. Included in the recommendations is the ability to assemble and sell land, utilize tax increment financing and issue bonds for such projects with a 55 percent vote of the public. Some of the projects might include affordable housing as well as economic development projects and support of infill projects. The ULI's California chapters released the 22-page report on December 13.

CO: Changes Proposed to Storm Water Discharge

The Water Quality Control Division of the Colorado Department of Public Health and Environment is proposing changes to the general permit for storm water discharge that would result in significant expense to municipalities, which many anticipate would be passed on to developers. By way of example, the Division would require construction sites to submit storm water site plans and local governments to inspect the site at least once every 30 days. If a construction site is in violation of Environmental Protection Agency (EPA) or minimum energy performance (MEP) standards then the site must be inspected every two weeks. Overall, they are essentially creating a one-size-fits-all policy that is not economically affordable to most local governments. In order to comply, most counties or cities would have to hire at least one new staffer for paper work and several new inspectors. The Division heard opposition at a hearing held earlier this week and will take public comment through January 10.

PA: House Passes Resolution Calling on Congress to Pass Marketplace Fairness Act

A resolution urging the U.S. Congress and President Barack Obama to adopt the Marketplace Fairness Act was approved by the Pennsylvania House of Representatives on Dec. 17.

The resolution was sponsored by Rep. Justin Simmons (R-Lehigh/Northampton). “Thanks to a series of decisions by the U.S. Supreme Court, states cannot require an out-of-state retailer to collect sales tax,” said Simmons. “As a result, most online purchases do not include the Pennsylvania sales tax. This has a negative impact on our community retailers, which are at a distinct disadvantage when competing with online retailers that don’t charge the state’s sales tax. We believe all retailers should play by the same rules.”

Simmons said the sales tax loophole also results in the Commonwealth losing out on badly needed tax revenue, estimated at more than \$400 million annually that could go toward broad-based tax relief for Pennsylvania residents.

According to one study, the use of these funds to reduce taxes could result in an additional \$15 billion for the state's economy and 43,000 new jobs over 10 years.

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 or call +1 202 626 1400.

