

September 2, 2021

Dear Representative Thompson,

On behalf of ICSC, the member organization for the advancement of the Marketplaces Industry, one of the business sectors hardest hit by the COVID economy, I am writing to express concern about various tax proposals under possible consideration to “pay-for” provisions in the upcoming budget reconciliation bill. As unveiled earlier this year, the Administration’s sweeping plans for long-term public investment will have the effect of discouraging private investment and entrepreneurship. The tax code should continue to promote and reward prudent risk-taking and not penalize a particular industry, which is exactly what a major increase in the capital gains rate will do. More specifically, ICSC opposes proposals to eliminate carried interest for real estate entrepreneurs, limit like-kind exchanges and tax unrealized gain in family businesses.

ICSC members are community builders, career developers, job creators and economy drivers. Our members include property owners, developers, financial institutions, professional service providers and, importantly, marketplace tenants such as retailers, restaurants, gyms, childcare providers, health care and wellness centers. These businesses are a vital part of every city and town across the country.

The Marketplaces Industry is an essential component of American communities, with an estimated \$6.7 trillion of annual pre-COVID consumer activity produced by the retail, food & beverage, entertainment and consumer service industries occurring within America’s marketplaces. Nearly 1 out of 4 American jobs is retail related. Approximately \$400 billion of all state and local taxes supporting schools, public safety resources and infrastructure was generated by our industry in 2019.

ICSC urges you to:

OPPOSE EFFORTS TO LIMIT SECTION 1031 OF THE TAX CODE, LIKE-KIND EXCHANGES (LKEs). THE UNINTENDED CONSEQUENCES WILL AFFECT NOT ONLY OUR NATION’S ECONOMY BUT HAVE SERIOUS IMPLICATIONS FOR ALL LEVELS OF GOVERNMENT.

- LKEs enable the efficient deployment of capital for reinvestment in economic development projects and job creation. They are critical for conservation efforts and increasing affordable housing.
- LKEs support 568,000 jobs and generate \$27.5 billion of labor income each year, according to Ernst & Young research.
- Limiting LKEs will reduce the exchange of properties, which will decrease local transfer and recording fees and property reassessments that are essential for the local tax base.

OPPOSE LEGISLATION TO TAX CARRIED INTEREST AS ORDINARY INCOME. CONGRESS SHOULD PROMOTE ECONOMIC GROWTH, NOT PENALIZE ENTREPRENEURS TRYING TO IMPROVE OUR COMMUNITIES.

- Real estate entrepreneurs have real and substantial personal risk. The risks include recourse on debt, potential lawsuits, unforeseen environmental remediation and meeting tenancy guarantees.

- In a real estate project, developers must first pay their investors (limited partners) a guaranteed rate of return. Only if the project is successful and after the investors have been paid will the developer receive a “carry.”
- Eliminating the financial incentive created by carried interest will discourage capital from flowing to higher risk projects. These projects could include underserved rural and urban markets, food deserts and complicated redevelopment projects.

OPPOSE THE TAXATION OF UNREALIZED GAIN IN FAMILY BUSINESSES. PASSING ALONG A LEGACY OF HARD WORK TO THE NEXT GENERATION IS CENTRAL TO REALIZING THE AMERICAN DREAM.

- A recent ICSC survey of owner/developers indicated 70% of businesses were family-owned; 86% of respondents intended to pass it to heirs, yet 77% said they could not pay what could amount to a new tax bill with a combined rate of over 60%.
- Ending stepped-up basis would create a new and large administrative burden on nearly every American family and small business.
- An Ernst and Young study found that the repeal of the stepped-up basis would reduce wages by \$32 for every \$100 in new taxes collected and eliminate 80,000 jobs per year.

ICSC respectfully asks that you consider the potential damaging economic consequences of these proposals on your district and state and reject these tax increases.

Thank you for your consideration.

Sincerely,

A handwritten signature in black ink that reads "Tom McGee". The signature is written in a cursive style with a large, sweeping initial "T".

Tom McGee
President & CEO
ICSC