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July 29, 2010

The Honorable Joseph Crowley
U.S. House of Representatives
2404 Rayburn House Office Building
Washington, D.C. 20515

Dear Congressman Crowley,

The International Council of Shopping Center (ICSC) is a strong supporter of H.R. 5901, the "Real Estate Jobs and Investment Act." This bill will help encourage new equity capital to enter commercial real estate markets by removing certain barriers to foreign investment in U.S. real estate. As the commercial real estate sector continues to struggle with limited credit availability, access to new equity is critical to helping publically traded Real Estate Investment Trusts (REIT) in the U.S. manage their existing debt obligations.

H.R. 5901 provides a targeted solution to address an artificial barrier that limits foreign investment in U.S. real estate. Currently, foreign investors are required to pay capital gains taxes on U.S. assets only in the investor's country of residence – unless that asset is real estate. Under the Foreign Investment in Real Property Tax Act (FIRPTA), gains from the sale of U.S. real estate are subject to an additional level of U.S. taxation on top of any capital gains tax. H.R. 5901 would change the level at which a foreign investor would become subject to the FIRPTA tax. This bill would allow a foreign investor to increase its ownership stake in a publically traded REIT from 5 percent to 10 percent before the FIRPTA tax is triggered. The dividends paid to non-U.S. shareholders would also become exempt from the FIRPTA tax but would still remain subject to U.S. withholding tax. This 10 percent threshold remains consistent with how current U.S. tax treaties determine ownership of publically traded real estate companies when evaluating individual investors in publically traded foreign mutual funds.

ICSC believes that increasing that the modifications presented in H.R. 5901 will encourage new foreign investment in U.S. real estate and begin to provide much needed equity to help stabilize the commercial real estate markets. Therefore, we strongly support H.R. 5901.

Sincerely,

Betsy Laird
Senior Vice President